

RNTPC Paper No. A/NE-KTS/530  
For Consideration by  
The Rural and New Town Planning  
Committee on 8.9.2023

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

**APPLICATION NO. A/NE-KTS/530**

**Applicant** : Innolife HK Limited represented by R-riches Property Consultants Limited

**Site** : Lot 1372 RP (Part) in D.D. 100, Tsiu Keng, Kwu Tung South, New Territories

**Site Area** : 631m<sup>2</sup> (about)

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Draft Kwu Tung South Outline Zoning Plan No. S/NE-KTS/19

**Zoning** : “Agriculture” (“AGR”)

**Application** : Temporary Place of Recreation, Sports or Culture (Horticultural Learning Centre) with Ancillary Eating Place for a Period of 3 Years and Filling of Land

**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 (horticultural learning centre) with ancillary eating place for a period of three years and filling of land. The Site falls within an area zoned “AGR” on the Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/19. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board)<sup>1</sup>. In addition, any filling of land within the “AGR” zone requires permission from the Board. The Site has already been developed and being used for the applied use without valid planning permission.

1.2 According to the applicant’s submission, the proposed learning centre comprises six

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<sup>1</sup> According to the Notes for “AGR” zone, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fish Ground only)’ is Column 2 use. Horticultural Learning Centre is not a Column 2 use.

single-storey structures (about 3m to 5m high) with a total non-domestic gross floor area (GFA) of about 239m<sup>2</sup> for horticultural learning rooms, office, rain shelter, washroom and ancillary eating place, which is intended to serve the visitors of the Site only. Portion of the Site (about 404m<sup>2</sup> or 64% of the Site) has been filled with concrete (not more than a depth of 0.2m) as site formation for structures and circulation space. The remaining portion of the Site, without any further land filling, is for plant nursery (about 146m<sup>2</sup>, 23% of the Site) and landscaping area (about 81m<sup>2</sup>, 13% of the Site) (**Drawing A-2**).

- 1.3 The Site is accessible from Fan Kam Road via Tsiu Keng Road and a local track. An entrance/exit is at the northwest tip of the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. daily, including public holiday. The estimated maximum number of visitor and staff member per day is 20 and 5 respectively. No parking or loading/unloading space is provided within the Site. Visitors are required to make appointment to access the Site. Visitors and staff are required to access the Site by public transport along Tsiu Keng Road before walking to the Site. One 5.5 tones lorry is used for delivery of larger goods with loading/unloading at Tsiu Keng Road once a week between 10:00 and 11:00 for approximately 10 minutes. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 The Site involves one previous application (No. A/NE-KTS/498) for temporary place of recreation, sports or culture (horticultural learning centre) with ancillary canteen and filling of land submitted by the current applicant. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2021 but was revoked in June 2023 due to non-compliance with approval conditions regarding the implementation of drainage and fire services installations (FSI) proposals. Compared with the previous application, the current application involves a slight reduction in plot ratio and GFA (reduced from about 0.41 to 0.38; and from about 259m<sup>2</sup> to 239m<sup>2</sup> respectively) as well as site coverage (from 41% to 38%).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form received on 14.7.2023 (**Appendix I**)
  - (b) Supplementary information received on 19.7.2023 (**Appendix Ia**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**. They are summarized as follows:

- (a) the temporary development will not frustrate the planning intention of the “AGR” zone. A large amount of site area is reserved for agricultural use (plant nursery) and the horticultural activity is similar to the always permitted agricultural use.
- (b) the development involves organizing horticulture courses for the interest

groups/individuals to learn more on horticultural techniques and to enhance public awareness in greening;

- (c) the site is the subject of a previously approved application for similar use and there is a similar application for hobby farm within the same AGR” zone approved by the Board in 2013, hence approval of the current application would not set an undesirable precedent for other similar application;
- (d) the applied use is not incompatible with the surrounding land uses, and the development could facilitate the development of Agricultural Park by providing courses on sustainable gardening practices and horticultural techniques;
- (e) the applicant had made efforts to comply with approval condition of the previous application No. A/NE-KTS/498, and partially complied with conditions on the submission of drainage and FSI proposals. However, the applicant failed to implement the proposals within the stipulated time limits; and
- (f) the development will not affect the traffic flow and will not create significant nuisances to the surrounding areas. Adequate mitigation measures will also be provided to mitigate any adverse impacts arising from the development.

### **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 notice to Sheung Shui District Rural Committee (SSDRC) by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Site is not subject to any active enforcement action.

### **5. Previous Application**

The Site is the subject of a previous application (No. A/NE-KTS/498) submitted by the same applicant under the current application for the same use. The application was approved with conditions by the Committee in 2021 mainly on the considerations that temporary approval would not jeopardise the long-term planning intention; the land filling had already been completed and the development was not entirely incompatible with the surrounding environment; and the development would unlikely cause significantly adverse impacts to the surroundings. The application was revoked in June 2023 due to non-compliance with approval conditions on implementation of drainage and FSI proposals. Details of the

application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

**6. Similar Application**

There is no similar application for horticultural learning centre.

**7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4c)**

7.1 The Site is:

- (a) fenced off, developed and used for the applied use without planning permission. Six single-storey structures are found on site; and
- (b) accessible from Fan Kam Road via Tsiu Keng Road and a local track.

7.2 The surrounding areas are predominantly rural in nature mainly surrounded by agricultural land with the following characteristics:

- (a) mainly occupied by active and fallow agricultural land/farm/nursey, scattered domestic structures and vacant/unused land;
- (b) a watercourse is located to the east; and
- (c) the area to its north and west is planned for the development of Agricultural Park (**Plan A-1**).

**8. Planning Intention**

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government department has objection to the application:

### **Agricultural**

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

The Site falls within the “AGR” zone and is a cemented vacant land with temporary structures. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed non-agricultural development is not supported from agricultural perspective.

## **10. Public Comments Received During Statutory Publication Period (Appendix V)**

On 21.7.2023, the application was published for public inspection. During the first three weeks of the statutory publication period, two public comments were received including one indicating no comment, and the remaining one objecting to the application mainly on the grounds that the development would attract certain amount of visitors and the applicant failed to comply with approval conditions in the drainage and fire safety aspects in the previous application.

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

- 11.1 The application is for temporary place of recreation, sports or culture (horticultural learning centre) with ancillary eating period for a period of 3 years and filling of land. The Site falls within an area zoned “AGR” (**Plan A-1**). The planning intention of “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. Although the plant nursery (subsumed under agricultural use) and landscaping areas are always permitted, land filling as well as the horticultural learning centre requires planning permission. DAFC does not support the application from agricultural perspective as agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. The applied use is not entirely in-line with the planning intention of the “AGR”

zone. Nevertheless, taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.

- 11.2 The land filling which has already been completed (not more than a depth of 0.2m) involves an area of about 404m<sup>2</sup> (about 64% of the Site) as site formation for structure and circulation space. Filling of land within “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Drainage Services Department (DSD) and Environmental Protection Department have no objection to the applied filling of land from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The applied use is considered not entirely incompatible with the surrounding land uses, which are farmlands, vegetated areas and domestic structures. The Site has been developed for the applied use with six single-storey structures (3m to 5m high with a total floor area of 259m<sup>2</sup>) for horticultural learning rooms, office, toilet, rain shelters and ancillary eating place. A total of 36% of the Site are used for plant nursery (23%) and landscaping area (13%). The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from the landscape planning perspective as significant adverse landscape impact arising from the Site is not anticipated.
- 11.4 Concerned government departments consulted, including the Commissioner for Transport and Director of Fire Services, have no objection to the application. In view of the nature and scale, the applied use would unlikely cause significantly adverse environmental, traffic, sewerage and drainage impacts to the surroundings. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments.
- 11.5 The Site is the subject of a previously approved application (No. A/NE-KTS/498 for the same use submitted by the same applicant. While the previously approved application was revoked due to non-compliance with approval conditions relating to the implementation of drainage and FSI proposals, the applicant has submitted a revised drainage proposal in support of the current application, which was considered acceptable by DSD, and he has no adverse comment on the application. Compared with the previously approved application, the current application is the same in terms of the applied use, site area/boundary and layout with similar development parameters. As there has been no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application. However, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 Regarding the public comment received objecting to the application as stated in paragraph 10 above, government departments’ comments in **Appendix III** as well as planning considerations and assessments in paragraph 11.1 to 11.4 above are

relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary place of recreation, sports or culture (horticultural learning centre) with ancillary eating place and filling of land could be tolerated 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 **8.9.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.10.2023;
- (c) the submission of proposal for fire service installations 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 8.3.2024;
- (d) in relation to (c) above, the implementation of proposal for 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 8.6.2024;
- (e) the implementation of drainage measures, as proposed by the applicant, 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 8.3.2024;
- (f) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all time during the planning approval period;
- (g) if any of the above planning condition (a) or (e) 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 any of the above planning condition (b), (c) or (d) 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.

#### Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "Agriculture" zone which 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. No strong planning justification has been given in the submission to justify 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**

<b>Appendix I</b>	Application form received on 14.7.2023
<b>Appendix Ia</b>	Supplementary information received on 19.7.2023
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Drawing A-2</b>	Land filling plan submitted by the applicant



<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to A-4c</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2023**