

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/542

<u>Applicant</u>	: LAW Cho Lung represented by Goldrich Planners and Surveyors Ltd.
<u>Site</u>	: Lot 635 in D.D. 94, Kwu Tung South, New Territories
<u>Site Area</u>	: About 363m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/21
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) with Ancillary Facilities for a Period of 5 Years and Associated Filling of Land

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) with ancillary facilities for a period of five years and associated filling of land. The Site falls within an area zoned “AGR” on the draft Kwu Tung South OZP No. S/NE-KTS/21 (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’, which is a Column 2 use, and filling of land requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered by weeds (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Fan Kam Road via a local track. According to the applicant, the proposed use involves erection of three single-storey temporary structures with a total gross floor area (GFA) of about 82.1m² and building height of not more than 5m for a multi-function room (office, toilet and storage), a meter room and a storeroom respectively. The applicant also proposes filling of land with concrete of about 0.1m in depth for about 139m² (about 38%) of the Site for the provision of solid ground for the erection of temporary structures. The remaining 224m² (about 62%) of the Site will be used as agricultural area. The operation hours are from 9:00a.m. to 6:00p.m. daily including public holidays. No public announcement systems, whistle blowing or portable loudspeaker will be allowed within the Site. The applicant estimates that a maximum of five visitors per day will visit the Site and there will be two to three staff members working at the Site

to maintain the agricultural works. No parking space or loading/unloading space will be provided within the Site. Visitors will be required to make appointment prior to visit and arrive by public transport like taxi. All loading/unloading activities will be carried out at the open areas outside the Site. The layout plans submitted by the applicant are at **Drawings A-1 to A-3**.

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

(a) Application Form with attachments received on **(Appendix I)**
20.8.2024

(b) Further Information (FI) received on 17.9.2024 **(Appendix Ia)**
accepted and exempted from publication and recounting requirements

2 Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form with attachments and FI at **Appendices I and Ia** and can be summarised as following:

- (a) the proposed use is temporary in nature and would not frustrate the long-term planning intention of the “AGR” zone. It promotes agricultural activities and green lifestyle to the public, improves environmental quality in the vicinity and benefits the local community;
- (b) the proposed development is not incompatible with the surrounding areas, which will not create significant adverse visual and landscape, environmental, traffic, fire safety and drainage impact on the surrounding areas. The applicant will follow the relevant government code of practices, guidelines and ordinance to minimize possible environmental impacts; and
- (c) there is a similar application Application No. A/NE-KTS/530 for ‘proposed temporary place of recreation, sports or culture (horticultural learning centre¹) with ancillary eating place for a period of 3 years and associated filling of land’ approved by the Rural and New Town Planning Committee (the Committee) in 2023 within the same “AGR” zone and the planning circumstances are similar to that of the Site.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4 Background

The Site is currently not subject to any active planning enforcement action.

¹ This is not considered a similar application for the current application as horticultural learning centre and hobby farm are of different nature in terms of land use.

5 Previous Application

There is no previous application covering the Site.

6 Similar Application

There is no similar application within the “AGR” zone on the OZP.

7 The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) fenced off, vacant and covered by weeds; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding areas are rural in character mainly comprising plant nursery and active farmlands to the north, west and south, and open storage yards, scattered residential structures and grassland / tree groups to the east and northeast (**Plan A-2**).

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 in “AGR” zone 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

All government 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 II and III** respectively.

10 Public Comments Received During the Statutory Publication Period (Appendix IV)

On 27.8.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received, including one from the Chairman of Sheung Shui District Rural Committee who indicates no comment on the application, and three individuals who object to the application mainly on grounds that the proposed filling of land would cause flooding to the surrounding areas, concerns on the traffic and noise, and extensive filling of land and approval period sought.

11 Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) with ancillary facilities for a period of five years and associated filling of land at the Site zoned “AGR” on the OZP (**Plan A-1**). 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 224m² (about 62%) of the Site will be used for agricultural activities, whilst about 139m² (about 38%) will be filled with concrete of 0.1m in depth for erection of the proposed temporary structures. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from agricultural point of view. Taking into account the planning assessment below, the proposed use on a temporary basis for a period of five years could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area as required by DAFC is recommended should the Committee decide to approve the application.
- 11.3 The proposed three single-storey structures, with a maximum BH of not more than 5m, have a total GFA of 82.1m² and is considered relatively small in scale. The proposed use is considered not incompatible with the surrounding land uses which are rural in character comprising mainly plant nursery, active farmland, grassland and open storage yard. The Chief Town Planner/Urban Design and Landscape of the Planning Department has no objection to the application considering that the proposed use is not incompatible with the surrounding environment and significant adverse landscape impact arising from the proposed use is not anticipated.
- 11.4 Other relevant government departments consulted, including the Commissioner for Transport and the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department to minimise any potential environmental nuisance caused by the proposed use on the surrounding areas.
- 11.5 Regarding the public comments received during the statutory public inspection period as detailed in paragraph 10 above, the departmental comments and planning considerations 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 has no objection to the application.

- 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 5 years until 4.10.2029. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a 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 4.4.2025;
- (b) in relation to (a) above, the implementation of the 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 4.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 4.4.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal 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 4.7.2025;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (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 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 III**.

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

the proposed use with associated filling of land 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, and 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 attachments received on 20.8.2024
Appendix Ia	FI received on 17.9.2024
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Area of site paved
Drawing A-3	Location for loading/unloading
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**