

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

APPLICATION NO. A/NE-MKT/24

<u>Applicant</u>	: Tin Yuen Company Limited represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 466 RP (Part) and 467 RP in D.D. 90, Lin Ma Hang Road, Man Kam To, New Territories
<u>Site Area</u>	: About 1,480m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of Three Years until 24.4.2026

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary place of recreation, sports or culture (hobby farm) for a period of three years until 24.4.2026 (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Man Kam To OZP No. S/NE-MKT/4. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use in “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant with a valid planning permission for hobby farm use until 24.4.2023. This approved scheme is yet to be implemented.
- 1.2 According to the submission, about 1,170m² (about 79%) of the Site will be used as cultivation/ farm area for growing vegetables. Two single-storey temporary structures with a total floor area of about 120m² and building height of about 3m² will be erected in the northwestern part of the Site for storage of farm tools, a portable toilet (with floor area of about 80m²) and a rain shelter (with floor area of about 40m²) (**Drawing A-1**). Four private car parking spaces (5m x 2.5m each) and manoeuvring space will be provided at the eastern part of the Site. The Site is accessible via Lin Ma Hang Road with an ingress/egress point located at the eastern edge of the Site (**Drawing A-1 and Plan A-2**).
- 1.3 The proposed operation hours are from 9:00 a.m. to 5:00 p.m. daily including Sundays and public holidays. The estimated number of visitors will be no more than 20 persons per day. No public announcement system and loud speaker would be used at the Site.

The proposed layout plan and drainage plan submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

1.4 The Site is the subject of a previous application No. A/NE-MKT/11 for the same applied use submitted by the same applicant as the current application, which was approved by the Rural and New Town Planning Committee (the Committee) on 24.4.2020. The development scheme submitted under the current renewal application is largely the same as the previous application in terms of applied use and site area except for a slight reduction in the cultivated area (i.e. from 1,231m² to 1,170m²) due to the provision of a drainage channel at the boundary at the Site. The applicant has complied with all the approval conditions.

1.5 In support of the application, the applicant has submitted the following documents:

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|--|------------------------|
| (a) Application Form with attachments received on 9.2.2023 | (Appendix I) |
| (b) Supplementary Information (SI) received on 14.2.2023 | (Appendix Ia) |
| (c) Further Information (FI) received on 14.3.2023 | (Appendix Ib) |

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form, SI and FI at **Appendices I, Ia and Ib**, and summarized as follows:

- (a) all the approval conditions in respect of the previous approved application (No. A/NE-MKT/11) have been complied with;
- (b) there are insignificant drainage, environmental, traffic and noise impacts on the surrounding areas; and
- (c) the proposed development is generally in line with the planning intention and is compatible with the surrounding environment.

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. Town Planning Board Guidelines

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

5. **Previous Application**

- 5.1 The Site is the subject of a previous planning application No. A/NE-MKT/11 for the same applied use submitted by the same applicant as the current renewal application which was approved by the Committee on 24.4.2020 mainly on the grounds that the proposed development was considered generally in line with the planning intention of “AGR” zone; and no major adverse departmental comments or concerns of relevant government department could be addressed through implementation of approval conditions.
- 5.2 The development scheme submitted under the current renewal application is largely the same as the previous application in terms of applied use and site area except for the reduction in cultivated area (i.e. about 1,231 m² to 1,170 m²) due to the provision of drainage channel at the boundary at the Site. The planning permission is valid until 24.4.2023 and all the approval conditions have been complied with.
- 5.3 Details of the previous application are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

6. **Similar Application**

There is no similar application within/ partly within the “AGR” zone in the vicinity of the Site in the Man Kam To area.

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

7.1 The Site is:

- (a) largely vacant; and
- (b) accessible via Lin Ma Hang Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north are a footpath, a drainage channel and fallow agricultural land (**Plan A-2**);
- (b) to its further north are plant nursery, ruins and domestic structures and fallow agriculture land within the village cluster of Muk Wu Nga Yiu (**Plans A-1** and **A-2**);
- (c) to its west and southwest are some temporary structures, fallow agricultural land and storage uses; and
- (d) to its east are Lin Ma Hang Road and fallow agricultural and vacant lands.

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 Apart from the government departments as set out in paragraph 9.2 below, other departments consulted have no objection to or no comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

9.2 The following government department has relayed the following concerns/ objection to the application.

9.2.1 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of San Uk Ling objects to the application. The Resident Representative (RR) of San Uk Ling objects to the application due to traffic concerns;
- (b) the RR of Muk Wu supports the application;
- (c) the incumbent North District Council member of the N16 constituency, the Chairman of Fung Shui Area Committee and the RR of Nga Yiu have no comment on the application; and
- (d) the IIR of Muk Wu and Ta Kwu Ling District Rural Committee have not provided their comments on the application.

10. Public Comments Received During Statutory Publication Period

On 17.2.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix II**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual objects to the application mainly on the grounds that the Site is not currently used as applied use.

11. Planning Considerations and Assessments

11.1 The application is for renewal of a planning permission for a temporary hobby farm for a further period of three years at the Site zoned “AGR” on the OZP. The proposed development is considered generally 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 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 application from agricultural purposes as the previous application for the same use was approved. The approval of the application on a temporary basis for a

period of three years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The Site is situated in an area of rural landscape character comprising fallow agricultural land and temporary structures. The applied use is considered not incompatible with the surrounding landscape setting. Significant adverse landscape impact arising from the application is not anticipated. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view.
- 11.3 The Site is accessible via Lin Ma Hang Road, C for T considers that the applied use is tolerable from traffic engineering point of view. DEP has no objection to the application, and the applicant should be reminded to adopt the environmental mitigation measures and requirements as set out in ProPECC PN5/93, the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” and all relevant environmental protection/ pollution control ordinances. Other relevant government departments consulted, including D of FS, CE/MN of DSD, have no adverse comment on / no objection to the application. It is considered that the applied use would not have significant adverse traffic, environment, drainage and fire safety impacts on the surrounding areas.
- 11.4 The Site is the subject of the previous application (No. A/NE-MKT/11) for same applied use submitted by the same applicant which was approved by the Committee in 2020. All the approval conditions have been complied with. The renewal application generally complies with the TPB PG-34D in that there has been no material change in planning circumstances since the approval of the previous application; there are no major adverse departmental comments against the renewal application; all the approval conditions have been complied with; and the approval period sought is not unreasonable.
- 11.5 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 10.2.1 and 11, government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 12 and having taken into account the local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 10.2.1 and 11 above respectively, 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 three years and be renewed from 25.4.2023 to 24.4.2026. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no public announcement system and loud speakers, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (b) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.7.2023;

- (c) the maintenance of the existing drainage facilities at the Site at all times during the approval period;
- (d) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (e) the existing traffic management measures shall be maintained at all times during the planning approval period;
- (f) the existing vehicular run-in/run-out to the Site along Lin Ma Hang Road shall be maintained at all times during the planning approval period;
- (g) if any of the above planning conditions (a), (c), (d), (e) 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 any of the above condition (b) 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 the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfactory of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 this 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 received on 9.2.2023
Appendix Ia	SI received on 14.2.2023
Appendix Ib	FI received on 14.3.2023
Appendix II	Relevant Assessment Criteria in TPB PG-No. 34D
Appendix III	Previous Application
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments

Drawing A-1	Proposed Layout Plan
Drawing A-2	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

PLANNING DEPARTMENT
MARCH 2023