

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/661

- Applicant** : Mr. LEE Lo Wan represented by Mr. WONG Sun Wo William
- Site** : Lot 1088 S.B (Part) in D.D. 82, Ping Che Road, Ta Kwu Ling, New Territories
- Site Area** : About 1,520 m²
- Lease** : (i) Block Government Lease (demised for agricultural use)
(ii) Letter of Approval (LoA) No. 5985 for erection of temporary structures for the purpose of watchman shed and agricultural storage
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : "Agriculture" ("AGR")
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years (**Plan A-1**). The Site falls within an area zoned "AGR" on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. 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 largely vacant with some structures at the northern and southern parts.
- 1.2 According to the applicant, the proposed temporary development involves 4 single-storey structures with building height of about 3.5 m to 5 m and a total floor area of about 147 m² for greenhouse, site office, exhibition room, storage, and portable toilet cum changing room purposes (**Drawing A-1**). The farming area will be about 782 m² (about 52% of the Site) including farmland of about 710 m² (about 47%) and greenhouse of about 72 m² (about 5%). An area of about 280 m² (about 18%) at the northern portion was paved where the site office, exhibition room, storage room, etc. are located, and the remaining area is soiled ground for circulation purpose.
- 1.3 The operation hours are from 9:00 a.m. to 5:00 p.m. daily, including public holidays. The proposed hobby farm will be opened to the public on weekends and public holidays on advanced booking, with 15 visitors at most in each of the morning and afternoon sessions,

i.e. 30 visitors per day at maximum. There will be two staff working at the Site. The Site is accessible from Ping Che Road via a local track (**Plan A-2**). The ingress/egress is located at the south-western corner of the Site. Two private car parking spaces (2.5 m × 5 m each) would be provided on-site. No public announcement system will be used at the Site. The proposed layout plan, landscape plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

- 1.4 The Site is the subject of a previous planning application No. A/NE-TKL/598 for the same use submitted by a different applicant and approved by the Rural and New Town Planning Committee (the Committee) on 19.10.2018. That planning permission had not commenced and was subsequently revoked on 19.11.2020 due to non-compliance with 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 15.3.2021 | (Appendix I) |
| (b) | Supplementary Information received on 22.3.2021 | (Appendix Ia) |
| (c) | Further Information (FI) received on 28.4.2021 [^] | (Appendix Ib) |
| (d) | FI received on 12.7.2021 [^] | (Appendix Ic) |
- [^] *accepted and exempted from publication*
- 1.6 On 14.5.2021, the Committee decided to defer making a decision on the application for two months pending the preparation of FI by the applicant to address departmental comments. The applicant submitted the FI on 12.7.2021 (**Appendix Ic**). The application is re-scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Information and FI at **Appendices Ia to Ic**. They can be summarised as follows:

- (a) the proposed hobby farm is non-profit making and founded by the applicant and his retired relatives. It intends to promote farming experience and cherish food away from the waste. The proposed development also provides for better utilisation of the fallow agricultural land. The Site will be operated by the applicant and will not be leased out;
- (b) the proposed hobby farm will be opened to the public free-of-charge on weekends and public holidays. Crops will be shared with the participants for free after harvesting;
- (c) to rehabilitate the agricultural land, new soil of about 300 mm in thickness will be laid onto the existing soiled ground for growing seasonal fruit and vegetables;
- (d) no public announcement system will be used to avoid noise nuisance to the surrounding areas;
- (e) the Site is accessible by public transport within five-minute walk from the nearest bus stop at Tong Fong, and advanced booking is required to visit the Site. Staff would be deployed to guide visitors to the Site from Ping Che Road;

- (f) the applicant has submitted the drainage and landscape proposals in support of the current application; and
- (g) should the application be approved, the applicant undertakes to reinstate the Site, i.e. to remove the existing hard paving and to grass the Site, upon expiry of the planning approval period.

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

The applicant is one of the “current land owners”. In respect of the other “current land owners”, the applicant 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 obtaining consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to planning enforcement action against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice (EN) was issued on 20.3.2020 requiring discontinuation of the UD by 20.6.2020. According to a recent site inspection on 23.6.2021, the storage items were largely removed. The Site will be closely monitored by the Planning Authority to ascertain the discontinuance of UD.

5. **Previous Application**

- 5.1 The Site is the subject of a previous planning application No. A/NE-TKL/598 for the same use submitted by a different applicant. The application was approved by the Committee on 19.10.2018 mainly on the considerations that the proposed use was generally in line with the planning intention of the “AGR” zone; it was not incompatible with the surrounding land uses; and the proposed development would not induce significant adverse impact to the surrounding area. That planning permission had not commenced and was subsequently revoked on 19.11.2020 due to non-compliance with the approval conditions.
- 5.2 Details of the previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

6. **Similar Application**

There is no similar application within the same “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

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, mainly soiled ground and partly paved at the northern portion;
- (b) occupied by some structures/sheds at the northern and southern portions; and
- (c) accessible from Ping Che Road via a local track (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north, west and south are vacant land;
- (b) to the east is a woodland within the “Green Belt” (“GB”) zone;
- (c) to the northeast and northwest are vacant/unused land, agricultural land and temporary domestic structures; and
- (d) to the south and southwest are vacant/unused land, warehouses, an open storage yard, scattered domestic structures and a plant nursery.

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

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lot No. 1088 S.B in D.D. 82 which is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The lot is surrounded by the adjoining private lots. The applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining land will be allowed for vehicular access to the Site for the proposed use;
- (b) the lot is covered by Letter of Approval (LoA) No. 5985 for erection of temporary structures for the purpose of watchman shed and agricultural storage. Given the existing parameters of the temporary structures do not tally with the approved one under the aforesaid LoA, her office reserves the rights to take enforcement action and cancel the LoA if situation warrants;

- (c) it is noted that one of the proposed structures would be built for toilet use. The applicant should note that any proposed toilet facility should meet the current health requirements; and
- (d) should the planning application be approved, the owner(s) of the lot concerned shall apply to her office for a Short Term Waiver (STW) covering the lot and all the structures concerned. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by her office.

Agriculture

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

- the Site falls within the "AGR" zone and possesses potential for agricultural rehabilitation. He has no strong view against the application from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission.

Traffic

9.1.3 Comments of the Commissioner for Transport (C for T):

- (a) having reviewed the FI submitted by the applicant (**Appendix Ic**), she has no further comment on the application as the traffic impact induced by the proposed development is tolerable from traffic engineering point of view;
- (b) should the application be approved, an approval condition requiring the implementation of traffic management measures, i.e. visit-by-appointment arrangement and deployment of staff to guide visitors to the Site from Ping Che Road, as proposed by the applicant is recommended; and
- (c) the vehicular access between the Site and Ping Che Road is not managed by the Transport Department. The applicant should seek comment from the responsible party.

Environment

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

- (a) he has no adverse comment on the application;
- (b) given the application is for temporary use, the applicant is advised to follow the EPD's latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP), including but not

limited to the environmental measures regarding dust and noise nuisance, and sewerage;

- (c) the applicant is also advised to strictly observe all relevant pollution control ordinances, particularly those on water quality and noise, and put in place necessary precautionary/pollution control measures to prevent pollution to nearby sensitive receivers, including watercourses nearby, during construction and operation. All requirements as stated in COP regarding the provision of septic tank and soakaway pit (STS) in ProPECC PN 5/93 should be followed, including Minimum Clearance Distance and Percolation Test requirements, and the design, construction, operation and maintenance of the STS should be duly certified by an Authorised Person; and
- (d) there is no environmental complaint against the Site in the past three years.

Landscape

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) according to the aerial photo of 2020 (**Plan A-3**), the Site is located in an area of rural inland plains landscape character predominated by vacant lands, farmlands and tree clusters with some open storage yards and temporary structures in the vicinity. A woodland within the “GB” zone is located immediately to the east of the Site. The proposed use is considered not incompatible with the surrounding environment;
- (c) according to her record, the Site is subject to an enforcement case of unauthorised open storage in 2020 resulting in vegetation clearance and hard paving at the northern portion of the Site. Adverse landscape impact had taken place. With reference to the proposed layout plan, hard paving at the northern portion of the Site is proposed and new tree plantings are proposed at the periphery of the Site. Further significant adverse landscape impact arising from the proposed use is not anticipated. As such, she has no objection to the application from landscape planning perspective;
- (d) in view that significant adverse visual impact arising from the proposed use is not envisaged, it is considered not necessary to impose a landscape condition should the application be approved by the Board; and
- (e) detailed advisory comments to the applicant are appended at **Appendix IV**.

Drainage

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

- (a) he has no objection to the application from public drainage viewpoint;

- (b) should the application be approved, an approval condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- there is no record of submission of proposed buildings/structures to the Building Authority (BA) for approval. For any new proposed buildings, detailed advisory comments are appended in **Appendix IV**.

District Officer's Comments

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

- he has consulted the locals regarding the application. The 1st Vice-Chairman of the Ta Kwu Ling District Rural Committee objects to the application on the grounds of proximity to residential area and additional traffic generation. The incumbent North District Council member of the subject constituency has no strong view on the application but advises the applicant to acquire right of access from the adjoining private lots. The Indigenous Inhabitant Representative (IIR) and Resident Representative

(RR) of Lei Uk, the IIR and RR of Tai Po Tin and the IIR of Tong Fong have no comment on the application.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period (Appendix III)

On 23.3.2021, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Kadoorie Farm and Botanic Garden Corporation and an individual raise concern about the active enforcement case at the Site, revocation of the previous planning permission, and the nature of the proposed development.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary hobby farm for a period of 3 years at the Site zoned "AGR" on the OZP. According to the applicant, about 782 m² of the Site (about 52%) will be used for cultivation purpose. The proposed development is considered generally not in conflict 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. DAFC has no strong view against the application from agricultural point of view. The approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the "AGR" zone.
- 11.2 The proposed temporary development, involving 4 single-storey structures of about 3.5 m to 5 m in height, is considered not incompatible with the surrounding environment which is of rural landscape character predominated by vacant land, active/fallow agricultural land and tree clusters with some open storage yards and temporary structures in the vicinity (**Plan A-2**). Since significant adverse landscape impact arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection to the application from landscape planning point of view.
- 11.3 Having reviewed the FI submitted by the applicant (**Appendix Ic**), C for T considers that the traffic impact induced by the proposed development is tolerable from traffic engineering viewpoint subject to implementation of traffic management measures as proposed by the applicant. DEP has no adverse comment on the application but advises the applicant to adopt the environmental mitigation measures and requirements as set out in the latest COP, ProPECC PN 5/93 and all relevant pollution control ordinances. Other relevant Government departments consulted, including CE/MN of DSD and D of FS, have no objection to or no adverse comment on the application.

- 11.4 The Site is the subject of a previous application No. A/NE-TKL/598 for the same use submitted by a different applicant. The application was approved by the Committee on 19.10.2018 mainly on the considerations that the proposed use was generally in line with the planning intention of the "AGR" zone; it was not incompatible with the surrounding land uses; and the proposed development would not induce significant adverse impact to the surrounding area. The circumstances of the subject application are similar to that previously approved application.
- 11.5 Regarding the local objection conveyed by DO(N), HAD and the two adverse public comments as detailed in paragraphs 9.1.9 and 10 above respectively, the Government departments' comments and the planning assessment above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.1.9 and 10 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 3 years until 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no use of public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 10.3.2022;
- (d) in relation to (c) above, the provision of drainage facilities 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 10.6.2022;
- (e) the submission of proposals for fire service installations and water supplies for firefighting 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 10.3.2022;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 10.6.2022;

- (g) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 10.6.2022;
- (h) if any of the above planning conditions (a) or (b) 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;
- (i) if any of the above planning conditions (c), (d), (e), (f) or (g) 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
- (j) 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 proposed development is not in line with the planning intention of the "AGR" zone which 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. There is no strong planning justification 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 15.3.2021
Appendix Ia	Supplementary Information received on 22.3.2021
Appendix Ib	FI received on 28.4.2021
Appendix Ic	FI received on 12.7.2021
Appendix II	Previous Application
Appendix III	Public Comments

Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**