

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/741

- Applicant** : Mr. LEE Lo Wan represented by Mr. WONG Sun Wo William
- Site** : Lot 1088 S.B (Part) in D.D. 82, Tong Fong, Ping Che Road, New Territories
- Site Area** : 1,520 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Letter of Approval (LoA) No. 5985 for erection of temporary structures for watchman shed and agricultural storage purposes
- 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 Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is largely formed and currently occupied by some container-converted structures/sheds without any valid planning permission.
- 1.2 The proposal comprises four single-storey structures (with building height ranging from 3.5m to 4m) with a total floor area of about 147m² for site office, portable toilet/changing room and other farm-related uses (including a greenhouse, an exhibition room and a structure for storage of agricultural tools) (**Drawing A-1**). The remaining uncovered area will be mainly used for hobby farm (about 1,110m², or 73% of the Site). According to the applicant, advance booking is required and the total number of visitors to be accommodated within the Site will be restricted to 30 per day (i.e. a maximum of 15 visitors in each of the morning and afternoon sessions). Two private carparking spaces are proposed within the Site. The Site is accessible via a local track leading to Ping Che Road. The applicant also proposes to regularize the land filling works carried out in the western portion of the Site (about 180m², or 11.8% of the Site) (**Drawing A-1**). The proposed operation hours are from 9:00 a.m. to 5:00 p.m. daily. No public announcement system

will be used at the Site. For sewerage treatment, two portable toilets will be placed within the Site and regular pumper truck service will be arranged on a weekly basis. The layout plan, landscape plan and drainage plan submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.

1.3 The Site is the subject of two previous applications (No. A/NE-TKL/598 and 661) for the same proposed use (without filling of land), which were approved by the Rural and New Town Planning Committee (the Committee) in 2018 and 2021 respectively. The last application submitted by the same applicant as the current application was revoked in 2023 due to non-compliance with approval conditions. Details of the previous applications are set out in paragraph 5 below. Compared with the previous application, the major development parameters and layout of the proposed development are largely the same as the current one.

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

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|-----|---|------------------------|
| (a) | Application Form with attachments received on 29.8.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 20.12.2023* | (Appendix Ia) |
| (c) | FI received on 31.1.2024* | (Appendix Ib) |
| (d) | FI received on 5.2.2024* | (Appendix Ic) |

** accepted and exempted from publication and recounting requirements*

1.5 On 27.10.2023, the Committee agreed to the applicant's request to defer making a decision on the application for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ib**, and summarized as follows:

- (a) the proposed hobby farm is a non-profit making farm for promoting farming experience among the applicant's relatives. It 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;
- (b) the proposed hobby farm would better utilize the vacant land;
- (c) no public announcement system will be used to avoid noise nuisance to the surrounding areas;
- (d) the Site is accessible by public transport within five-minute walk from the nearest bus stop in Tong Fong, and advance booking is required for the visit;
- (e) the Site is the subject of a previously approved application for the same applied use. The applicant failed to comply with the approval conditions as he was out of town and could not return to Hong Kong. Part of the works have already been completed under the previous application No. A/NE-TKL/661 and the applicant would continue to run the proposed hobby farm; and
- (f) 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 not the subject of any active enforcement case.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-TKL/598 and A/NE-TKL/661) for the same use, which were approved by the Committee on 19.10.2018 and 10.9.2021 respectively mainly on 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 areas.
- 5.2 The last application submitted by the same applicant as the current application was revoked on 10.3.2023 due to non-compliance with approval conditions in relation to the submission/provision of drainage facilities, and implementation of fire service installations (FSIs) proposal and traffic management measures. Compared with the previously approved application, the use and development parameters of the current application remain largely the same, except that the maximum building height of the structures has been reduced from 5m to 4.5m (-10%), the proposed farming area has been increased from about 710m² to 1,110m² (+ about 56%), and the paved area at the west has been reduced from 280m² to 180m² (- about 35.7%).
- 5.3 Details of the previous applications are summarized at **Appendix II** and their locations are shown in **Plan A-1**.

6. Similar Application

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

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) largely formed and fenced off;
- (b) currently occupied by some structures/sheds without any valid planning permission; and
- (c) accessible via a local track leading to Ping Che Road.

- 7.2 The surrounding areas are of rural inland plains landscape character comprising logistics centre and storage yards (some of which are subject to approved planning applications), temporary domestic structures, active/fallow agricultural land, vacant land and tree clusters.

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 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 departments 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 at **Appendices III** and **IV** respectively.

- 9.2 The following government departments have comments on the application:

Land Administration

- 9.2.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government. No right of access via Government Land (GL) is granted to the Site;
 - (b) there are unauthorized structures erected on the Site. The lot owner should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the lease breaches without separate notice; and
 - (c) the lot is covered by LoA No. 5985 for erection of temporary structures for watchman shed and agricultural storage uses. His office reserves the rights to take enforcement action for irregularities and cancel the LoA as appropriate in light of (b) above.

District Officer's Comments

- 9.2.2 Local views/comments relayed by the District Officer (North), Home Affairs Department (DO(N), HAD):
- (a) the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Lei Uk object to the application mainly on the grounds that the Site

was originally a farmland and therefore should not be used for other uses, and the ingress/egress would affect the accessibility of local residents and cause environmental pollution;

- (b) the incumbent North District Councillor of N16 Constituency has no comment on the application; and
- (c) Ta Kwu Ling District Rural Committee, the Chairman of Fung Shui Area Committee, the Resident Representative (RR) of Lei Uk, the IIR and the RR of Tai Po Tin, the IIR and the RR of Tong Fong do not reply.

10. Public Comments Received During Statutory Publication Period

On 29.8.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix V**) from a member of North District Council who indicates no comment on the application and an individual objects to the application as the previous planning permission was revoked due to non-compliance with approval conditions.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. According to the applicant, the proposed use consists of four temporary structures for site office, portable toilet/changing room and other farm-related uses (including storage of agricultural tools, greenhouse and exhibition room). About 73% of the Site will be used for cultivation purpose. The proposed use is considered not in conflict with the planning intention of the “AGR” zone as detailed in paragraph 8.1 above. Director of Agriculture, Fisheries and Conservation has no strong view on the application from agricultural perspective on the understanding that agricultural activities are involved in the proposed use.
- 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, Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring reinstatement of the Site to an amenity area is recommended in paragraph 12.2 below, should the application be approved.
- 11.3 The Site is situated in an area of rural inland landscape character intermixed with logistics centre and storage yards (some of which are subject to approved planning applications), temporary domestic structures, active/fallow agricultural land, vacant land and tree clusters. The proposed use is considered not entirely incompatible with the surrounding environment. Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from the landscape planning perspective as significant adverse impact on existing landscape resources within the Site arising from the proposed use is not anticipated.
- 11.4 Having reviewed the submitted FI, the Commissioner for Transport considers that the traffic impact induced by the proposed use is tolerable from traffic engineering point of

view. DEP has no objection to the application from environmental perspective provided that no public announcement system will be used within the Site. The applicant would be reminded to adopt the environmental mitigation measures and requirements as set out in ProPECC PN 1/23, 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 departments consulted, including Director of Fire Services and Chief Engineer/Construction of Water Supplies Department have no adverse comment on/no objection to the application. While DLO/N of LandsD has comments on the application regarding unauthorized structures within the Site, the applicant will be advised to liaise with LandsD to deal with land issue separately under the land regime.

- 11.5 The Site is the subject of a previously application No. A/NE-TKL/661 for the same use submitted by the same applicant as the current application, which was approved by the Committee on 10.9.2021 mainly on considerations as detailed in paragraph 5.1 above, and was revoked on 10.3.2023 due to non-compliance with the approval conditions relating to the submission/provision of drainage facilities, the implementation of the FSIs proposal and traffic management measures. According to the applicant, there was difficulty in preparing the drainage proposal and implement relevant FSIs proposal as he was out of town, which has resulted in revocation of the last application. In support of the application, relevant drainage and FSIs proposals are included in the current application. As compared with the previous application, the major development parameters and layout of the proposed development are largely the same as the previous one, except for minor reduction in the land filling area and building height, and increase in the farming area of the proposed structures. Should the Committee decide to approve the application, the applicant will be advised that should they fail to comply with any of the approval conditions resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 11.6 Regarding the local objection conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.2.2 and 10 above respectively, the government departments’ comments and 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 9.2.2 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 16.2.2027. 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 16.8.2024;
- (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 16.11.2024;
- (e) in relation to (d) above, the maintenance of the implemented drainage facilities within the Site at all times during the planning approval period;
- (f) the submission of a FSIs 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 16.8.2024;
- (g) in relation to (f) above, the implementation of the FSIs 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 16.11.2024;
- (h) if any of the above planning condition (a), (b) 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;
- (i) if any of the above planning condition (c), (d), (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 use and the associated filling of land are 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 29.8.2023
Appendix Ia	FI received on 20.12.2023
Appendix Ib	FI received on 31.1.2024
Appendix Ic	FI received on 5.2.2024
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
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-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2024**