

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/706

- Applicant** : Mr. YU Chi-kin
- Site** : Lots 674 S.A, 674 S.B, 674 S.C and 674 RP in D.D. 17, Tai Po, New Territories
- Site Area** : About 556m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Hobby Farm, Shop and Services (Retail Shop) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary hobby farm with retail shop for a period of 3 years with filling of land (podium of 10 cm in depth) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ and associated filling of land in the “AGR” zone¹ require planning permission from the Town Planning Board (the Board). For ‘Shop and Services’ use, whilst there is no provision for such use in the “AGR” zone, the Board may grant planning permission for such use for a maximum period of 3 years. The Site is currently occupied for the applied use with valid planning permission under application No. A/NE-TK/640 until 7.8.2021.
- 1.2 The applied use involves a farm area of around 340m² (i.e. about 61.2% of the total site area) with 25 planting plots (each of around 3.84m²). The retail shop will be accommodated in a single-storey structure with a covered area of 42.5m² and a height of 3m, which is also used for recess and storage purposes. The remaining area comprises mainly a portable toilet with a total covered area

¹ Except for filling of land specifically required under prior written instructions of Government department(s), or for purposes of genuine agricultural practice including laying of soil not exceeding 1.2m in thickness for cultivation, and construction of agricultural structure with prior written approval from the Lands Department.

of about 1.3m²; a movable wooden platform of about 28m² to serve as a sitting out area; and around 20m² of greenery area. In accordance with the previous planning approvals, the land filling works for a concrete platform of about 70m² and 10cm in depth is already complete to form the base for one of the structures. No vehicular access or parking space is provided. A layout plan of the applied use is at **Drawing A-1**. The operation hours of the applied use are between 2:00 p.m. and 6:00 p.m. from Tuesdays to Sundays. According to the applicant, there are currently 17 groups of regular patrons to the hobby farm, who mainly access the Site on foot, by bike or through public transport. The number of visitors will not be more than 5 from Tuesdays to Fridays and 12 on the weekends.

1.3 The Site is the subject of two previous applications for the same use submitted by the same applicant which were approved by the Rural and New Town Planning Committee (the Committee) in 2015 and 2018. Compared with the last approved one (No. A/NE-TK/640), there is no change in site boundary and site area, with a decrease in the number of structures from 4 to 2 and maximum building height from 3.3m to 3m, and an increase in total covered area from 43.5m² to 43.8m² and the total area of planting plots from 39m² to 96m² under the current application. The applicant has complied with all approval conditions under the last planning approval.

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

- (a) an application form with attachments received (**Appendix I**) on 4.5.2021 and replacement pages received on 7.5.2021
- (b) further information received on 3.6.2021 (**Appendices Ia**) clarifying the number of visitors, greenery and farm area, and status of compliance with the previous approval conditions (*accepted and exempted from the publication and recounting requirements*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the application form and supplementary information at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) the applicant seeks to replace the worn-out facilities of the existing hobby farm and enhance the safety to the visitors;
- (b) the applied use will continue to provide opportunities for families and nearby residents to participate in farming activities and foster social harmony;

- (c) the Site is served by public transport and the number of visitors will be minimal. The hobby farm will not cause adverse traffic, noise and environmental impacts to the surroundings; and
- (d) the applicant has complied with all approval conditions under the last planning approval.

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

The applicant is one of the “current land owners”. He 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 the consent of the remaining land owner of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

- 4.1 The Site is the subject of two previous applications (No. A/NE-TK/553 and 640) submitted by the same applicant for the same use. Application No. A/NE-TK/553 was approved by the Committee for a period of 3 years on 7.8.2015, and was renewed on 15.6.2018 under Application No. A/NE-TK/640 for a further three years until 7.8.2021. The planning approvals were granted mainly on considerations that the temporary hobby farm would not frustrate the long-term planning intention of the “AGR” zone; would not be incompatible with the surrounding area which was predominantly rural in character; and would not cause any significant adverse drainage, environmental and traffic impacts on the surrounding areas. All approval conditions have been complied with. The comparison between the current application and the last approved application is set out in paragraph 1.3 above
- 4.2 Details of the applications are shown in **Appendix II** and their locations are shown on **Plan A-2**.

5. Similar Applications

- 5.1 There are three similar applications (No. A/NE-TK/321, 678 and 687) for temporary hobby farm within “AGR” zone in the vicinity of the Site, which were all approved with conditions by the Committee on 29.10.2010, 20.11.2020 and 12.3.2021 respectively. All applications were approved on similar considerations as mentioned in paragraph 4.1 above.
- 5.2 Details of the applications are shown in **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

6. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3, A-4a and A-4b)

6.1 The Site is:

- (a) fenced off and mainly used as farmland. The remaining part of the Site is partly hard paved and occupied by a converted container on a concrete platform, a shed and an outdoor wooden platform for a retail shop and sitting out area; and
- (b) situated near the junction of Shan Liu Road and Ting Kok Road.

6.2 The surrounding areas are predominantly rural in character surrounded by vegetation, farmlands and village houses. To the further west across Shan Liu Road is Ting Kok Village.

7. 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.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of four private lots held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lots without prior approval from LandsD;
- (c) a Short Term Waiver (STW) for part of the Site has been issued on 16.8.2016 for the purpose of “a hobby farm, shop, service (retail shop) and ancillary uses” with a built-over area (BOA) not exceeding 44m² and a height not exceeding 3.3m. A recent inspection revealed that a shade was erected on the Site with a BOA exceeding that permitted under the STW. The STW holder is required to rectify such irregularity at once. Otherwise, enforcement action in this regard will be taken;

- (d) should the application be approved, the lots' owners are required to submit fresh STW applications to LandsD to erect any new structures on the Site. However, there is no guarantee at this stage that the STW applications would be approved. If the STW applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fees as considered appropriate;
- (e) the two proposed exits of the Site lead to unallocated Government land. As such, no tress thereon shall be interfered with unless prior approval is obtained from LandsD. The maintenance and management responsibility of the said Government land and any other Government land leading to the Site should be sorted out with the relevant Government departments, prior to making use of them for access purpose. Further, neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD; and
- (f) there is no guarantee to the grant of a right of way to the Site or approval of the Emergency Vehicular Access (EVA) thereto.

Traffic

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

- (a) no in-principle objection to the application for a period of 3 years from traffic engineering viewpoint;
- (b) the existing village access connecting to the Site is not managed by the Transport Department (TD). The land status, management and maintenance responsibilities of the road and footpath leading to the Site should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid any potential dispute.

Environment

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

- (a) no objection to the application;
- (b) the applicant is advised:
 - (i) to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open

Storage Site” to minimize any potential environmental nuisance;

- (ii) to provide adequate supporting infrastructures/facilities for proper collection, treatment and disposal of waste/wastewater generated from the applied use. Noted the use of portable toilet has been proposed by the applicant, the applicant is reminded to employ licensed contractor to regularly collect, treat and dispose sewage from the portable toilet; and
- (iii) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (c) according to his record, there is no environmental complaint related to the Site in the past three years.

Landscape

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

- (a) no objection to the application from landscape planning point of view;
- (b) the Site is located in an area of rural coastal plains landscape character surrounded by vegetation, farmlands and village houses. The hobby farm is already in operation, involving two applied single-storey structures with not more than 3m in height. The applied use is considered not entirely incompatible with the surrounding environment;
- (c) compared with the last application, despite there are some changes on the layout of facilities within the Site, further impact on existing landscape resources and landscape character within and surrounding the Site arising from this application is not anticipated; and
- (d) noting that the Site is surrounded by existing vegetation and there is no major public frontage along the site boundary, should the application be approved, there is no need to impose landscape conditions as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Agriculture

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

- the Site falls within an “AGR” zone and is currently a hobby farm. It possesses potential for agricultural rehabilitation. He has no strong view on the application on the understanding that agricultural activities are involved in the applied use.

Drainage

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

- (a) while there are DSD’s public stormwater drains in this area, the applicant should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify/modify the nearby existing/original drainage systems if they are found to be inadequate or ineffective to accommodate the additional runoff arisen from the development of the Site. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure or ineffectiveness of the modified drainage systems caused by their works;
- (b) there are existing public sewers in the vicinity of the Site;
- (c) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (d) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.

Building Matters

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

- advisory comments under the Building Ordinance are provided at paragraph (f) of **Appendix V**.

Fire Safety

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

- (a) no in-principle objection to the application subject to the fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval, of which:
 - (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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Food and Environmental Hygiene

8.1.9 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) any commercial/trading activities should not encroach onto the public place and no nuisance, injury or danger to health and surrounding environment should be caused. Also, for any waste generated from the activities in the premises, the applicant should handle on its own/at its expenses; and
- (b) proper licence/permit issued by this Department is required if there is any food business/catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. The operation of any business should not cause any obstruction.

8.2 The following Government departments have no comment on the application:

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (e) Project Manager/North, Civil Engineering and Development

- Department (PM/N, CEDD);
- (f) Director of Electrical and Mechanical Services (DEMS);
 - (g) Commissioner of Police (C of P); and
 - (h) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

9. Public Comment Received During Statutory Publication Period (Appendix IV)

On 11.5.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from the Indigenous Inhabitants Representative of Shan Liu Village indicating support to the application and suggesting the applicant to duly manage parking of its visitors' cars to avoid traffic jam at Shan Liu Road.

10. Planning Considerations and Assessments

- 10.1 The application is for a temporary hobby farm and shop and services (retail shop) use for a period of 3 years with filling of land (podium of 10cm in depth) within an area zoned "AGR" on the OZP. 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. According to the applicant's submission, about 61.2% of the total site area is for farming use. DAFC has no strong view on the application on the understanding that agricultural activities are involved.
- 10.2 The Site is used mainly for farming with only two single-storey structures with a total covered area of about 43.8m² for retail, recess, storage and portable toilet uses. Land filling works under this application have been completed in accordance with previous planning approvals. No additional land filling will be carried out. The surrounding areas are predominantly rural in character surrounded by vegetation, farmlands and village houses. The applied use is considered not incompatible with the surrounding environment. CTP/UD&L of PlanD has no objection to the application as impact on existing landscape resources and landscape character within and surrounding the Site is not anticipated. CE/MN of DSD and D of FS advise that should the application be approved, approval conditions on drainage facilities and FSIs should be imposed. Other government departments consulted, including DEP, C for T, DLCS, CE/C of WSD, CHE/NTE of HyD, H(GEO) and PM/N of CEDD, DEMS, DO/TP of HAD and C of P have no objection to/adverse comment on the application.
- 10.3 The Site is the subject of two previous applications (No. A/NE-TK/553 and 640) submitted by the same applicant for the same use. Application No. A/NE-TK/553 was approved by the Committee for a period of 3 years on 7.8.2015, and was renewed on 15.6.2018 under Application No. A/NE-TK/640 for a further three years until 7.8.2021. The planning approvals were granted mainly on considerations as set out in paragraph 4.1 above. All approval conditions have been complied with. Compared with the latest application, there is no

change in site boundary and site area, with a decrease in the number of structures (from 4 to 2) and maximum building height (from 3.3m to 3m), and an increase in total covered area (from 43.5m² to 43.8m²) and total area of planting plots (from 39m² to 96m²) under the current application. The disposition of various uses within the Site remains largely the same.

- 10.4 There are three similar applications (No. A/NE-TK/321, 678 and 687) for temporary hobby farm uses within “AGR” zones in the vicinity of the Site, which were all approved by the Committee between 2010 and 2021, on similar considerations as mentioned in paragraph 4.1 above. The circumstances for approval of these applications are largely applicable to the current one.
- 10.5 The public comment as detailed in paragraph 9 suggests the applicant should manage parking of its visitors’ cars. In this regard, the applicant indicates that most of its visitors will access the Site on foot, by bike or through public transport, and no significant parking need is anticipated. C for T also has no in-principle objection to the application. An advisory clause is recommended for the applicant to undertake necessary measures to avoid illegal parking by its visitors at public roads.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comment in paragraph 9, Planning Department has no objection to the application.
- 11.2 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 25.6.2024. The following conditions of approval 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 25.12.2021;
- (b) in relation to (a) above, the implementation 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 25.3.2022;
- (c) the submission of fire service installations and water supplies for firefighting proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.12.2021;
- (d) in relation to condition (c) above, the implementation of fire service installations and water supplies for firefighting proposal within **9** months

from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 25.3.2022;

- (e) if any of the above planning conditions (a), (b), (c) or (d) is not complied with within the specified time limit, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (f) upon the 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 V**.

11.3 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 "AGR" 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. There is no strong justification given in the submission for a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 12.3 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.

13. Attachments

- Appendix I** Application form and attachments received on 4.5.2021 and replacement pages received on 7.5.2021
- Appendix Ia** Further information submitted by the applicant received on 3.6.2021
- Appendix II** Previous applications

Appendix III	Similar applications
Appendix IV	Public comment
Appendix V	Recommended advisory clauses
Drawing A-1	Layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
JUNE 2021**