

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/797

<u>Applicant</u>	: Mr. YU Chi-kin
<u>Site</u>	: Lots 674 S.A, 674 S.B, 674 S.C and 674 RP in D.D. 17, Tai Po, New Territories
<u>Site Area</u>	: About 556m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Hobby Farm, and Shop and Services (Retail Shop) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary hobby farm, and shop and services (retail shop) for a further period of three years until 25.6.2027. The Site falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, while ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use within the “AGR” zone which requires planning permission from the Town Planning Board (the Board), there is no provision for ‘Shop and Services’ use within the “AGR” zone. Temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Board. The Site is currently used for the applied uses with valid planning permission granted under Application No. A/NE-TK/706 until 25.6.2024. Noting the changes in total floor area, building height and operation hours of the current application as compared with the planning permission granted under the previous application No. A/NE-TK/706, as detailed in paragraph 1.4 below, the current application will be regarded as a fresh application.
- 1.2 According to the applicant, the applied uses mainly involve a farming area of about 340m² (i.e. 61% of the Site) and a single-storey structure with a height of about 3.5m and a total floor area of about 45m² for retail shop use (**Drawing A-1**). The operation hours will be from 11:00 a.m. to 7:00 p.m. from Tuesdays to

Sundays. In accordance with the previous planning approval, about 70m² or 13% of the Site was paved to provide a concrete platform for erecting the retail shop structure. The remaining area comprises a movable wooden platform of about 28m² that serves as a sitting-out area, a portable toilet of about 1.3m², and a greenery area of about 20m². The Site is directly accessible via Shan Liu Road which connects to Ting Kok Road (**Plan A-2**). The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site is the subject of three previously approved applications (No. A/NE-TK/553, 640 and 706) submitted by the same applicant for the same use (**Plan A-2**). Details of the previous applications are set out in paragraph 5.1 below. All approval conditions under the last application No. A/NE-TK/706 have been complied with.
- 1.4 Compared with the last application, the current one involves increase in total floor area and building height, and extension of operation hours. A comparison of the major development parameters of the previous application and the current application is as follows:

Major Development Parameters	Previously Approved Application No. A/NE-TK/706 (a)	Current Application No. A/NE-TK/797 (b)	Difference (b) – (a)
Proposed/ Applied Uses	Temporary Hobby Farm, and Shop and Services (Retail Shop) for a Period of Three Years and Filling of Land	Temporary Hobby Farm, and Shop and Services (Retail Shop) for a Period of Three Years	Land filling works were completed under the last planning permission, and no further land filling is required under the current application
Site Area	About 556m ²		No change
Farming Area	About 340m ² (i.e. about 61% of the total site area)		No change
Filling of Land	- 70m ² in size (for concrete platform) - 10cm in depth (for concrete platform)	No new filling of land is involved	No change
Total Floor Area	42.5m ²	45m ²	+ 2.5m² (+ about 5.9%)
No. of Structures	1	1	No change
Height of Structures	3m	3.5m	+ 0.5m (+ about 16.7%)

Major Development Parameters	Previously Approved Application No. A/NE-TK/706 (a)	Current Application No. A/NE-TK/797 (b)	Difference (b) – (a)
Operation Hours	from 2:00 p.m. to 6:00 p.m. from Tuesdays to Sundays	from 11:00 a.m. to 7:00 p.m. from Tuesdays to Sundays	Four more hours per day

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

- (a) Application Form with attachments received on **(Appendix I)** 11.4.2024
- (b) Further Information (FI) received on 14.5.2024* **(Appendix Ia)**
- (c) FI received on 22.5.2024* **(Appendix Ib)**

**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 Application Form and FI at **Appendices I** and **Ia**, as summarized below:

- (a) the applicant seeks renewal of the planning permission for temporary hobby farm and retail shop uses to continue the current use at the Site. The retail shop will mainly sell seeds and seedlings to farmers on the Site;
- (b) land filling works approved under previous planning applications were completed and no new land filling is involved under the current application; and
- (c) should the application be approved, the applicant will apply for modification of the existing Short Term Waiver (STW) to regularize the structure found on the Site.

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

The applicant is one of the “current land owners” and 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. 31B) by notifying the remaining land owner by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Applications

- 5.1 The Site is the subject of three previous applications (No. A/NE-TK/553, 640 and 706) submitted by the same applicant as the current application for the same use (**Plan A-2**). All of them were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2015 and 2021 mainly on considerations of not frustrating the long-term planning intention of the “AGR” zone; not incompatible with the surrounding areas; and not causing significant adverse impacts on the surrounding areas.
- 5.2 The last application (No. A/NE-TK/706) was approved by the Committee on 25.6.2021 for a period of three years until 25.6.2024, and all approval conditions in relation to submission and implementation of drainage proposal, as well as fire service installations (FSIs) and water supplies for fire-fighting proposal have been complied with.
- 5.3 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Site.

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

- 7.1 The Site is :
- (a) fenced off and mainly used for hobby farm use;
 - (b) partly hard paved and occupied by a single-storey structure on a concrete platform and a movable wooden platform serving as a sitting-out area; and
 - (c) directly accessible via Shan Liu Road which connects to Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with vegetation, farmlands and village houses. To its west across Shan Liu Road is the village proper of Ting Kok (**Plans A-2** and **A-3**). To its further south across Ting Kok Road are the sites of two temporary hobby farms with valid planning permission (Applications No. A/NE-TK/678 and 687) (**Plan A-2**).

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 department 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 recommended advisory clauses are provided at **Appendices III** and **IV** respectively.

9.2 The following government department has reservation on the application.

Land Administration

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

- (a) the Site comprises four Old Schedule Agricultural Lots all in D.D. 17 under different ownerships. The lots are held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government;
- (b) a STW No. 783 in favour of the applicant for Lots 674 S.B and 674 S.C both in D.D. 17 was issued on 16.8.2016 by his office for the purpose of “a hobby farm, shop, service (retail shop) and ancillary uses” with a total built-over area not exceeding 44m² and a height not exceeding 3.3m;
- (c) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access thereto;
- (d) a recent site inspection revealed that a temporary structure was erected without the prior approval of his office and its dimensions exceed that permitted under the STW. The lot owner should immediately rectify the lease breaches or apply to his office for modification of STW conditions where appropriate to regularize any irregularities on Site; and
- (e) LandsD has reservation on the planning application since there are unauthorized structures on the private lots.

10. Public Comment Received During Statutory Publication Period

On 19.4.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual (**Appendix V**) objecting to the application as approval conditions of the last application (No. A/NE-TK/706) have not been complied with.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary hobby farm, and shop and services (retail shop) for a period of three years at the Site zoned “AGR” on the OZP. According to the applicant, about 340m² (or about 61%) of the Site is used for farming purpose. The retail shop is accommodated in a single-storey structure with a height of about 3.5m and a total floor area of about 45m². Land filling works were completed under the last planning permission and no further land filling is required under the current application. Director of Agriculture, Fisheries and Conservation has no strong view on the application from agricultural perspective considering that previous planning approvals for the same use had been granted on the Site. Taking into account the planning assessments below, the applied uses on a temporary basis for a period of three years could be tolerated.
- 11.2 The Site is currently fenced off and mainly used for hobby farm use (**Plan A-4**). Part of it is hard paved and occupied by a single-storey structure on a concrete platform and a movable wooden platform serving as sitting-out area (**Photo 1** on **Plan A-4**). The applied uses are considered not incompatible with its surrounding areas predominated by vegetation, farmlands and village houses (**Plans A-2** and **A-3**). Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective as further adverse impact on the existing landscape resources arising from the continuous use of the Site for the applied uses is not anticipated. The applied uses are also not expected to cause significant adverse impacts on the surrounding areas. Other relevant government departments consulted including Director of Environmental Protection, Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. While it is noted that approval conditions requiring the submission and implementation of drainage and FSIs proposals have been complied with under the previous application (No. A/NE-TK/706) as detailed in paragraph 5.2 above, since the current application is considered as a fresh application, approval conditions requiring the submission and implementation of these two proposals for the current application are also recommended. While DLO/TP of LandsD has reservation on the application as unauthorized structures are found on the lots concerned, the land matters should be dealt with separately under the land administration regime. The applicant also states that should the application be approved, he will settle the land matters by applying for modification of STW. The applicant will be advised to follow up with DLO/TP of LandsD about their concerns.
- 11.3 The Site is the subject of three previous applications submitted by the same applicant for the same use, which were all approved by the Committee between 2015 and 2021 mainly on considerations stated in paragraph 5.1 above. Compared with the last application (No. A/NE-TK/706), the current application mainly involves increase in total floor area (from 42.5m² to 45m²) and building height (from 3m to 3.5m). The operation hours will also be extended (from 2pm-6pm to 11am-7pm, from Tuesdays to Sundays). All approval conditions under the last application have been complied with. Approval of the current application is in line with the previous decisions of the Committee.

- 11.4 Regarding the concern raised in the objecting public comment mentioned in paragraph 10 above, it should be noted that the applicant has complied with the approval conditions under the last application.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, Planning Department considers that the temporary hobby farm, and shop and services (retail shop) could be tolerated for a period of three years.
- 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 until 7.6.2027. 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 7.12.2024;
- (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 7.3.2025;
- (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 proposal for water supplies for fire-fighting and fire service installations (FSIs) 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 7.12.2024;
- (e) in relation to (d) above, the provision of water supplies for fire-fighting and FSIs 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 7.3.2025;
- (f) 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;
- (g) 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; and
- (h) 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 IV**.

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

- the applied uses are 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. 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) 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 11.4.2024
Appendix Ia	FI received on 14.5.2024
Appendix Ib	FI received on 22.5.2024
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2024**