

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1044

<u>Applicant</u>	: Mr. WU Wai Ho represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1786, 1787 S.B and 1787 RP in D.D.107 and Lots 21 (Part), 22 (Part) and 28 (Part) in D.D. 109, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 7,369m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Holiday Camp, Place of Recreation, Sports or Culture, Barbecue Site and Eating Place for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary holiday camp, place of recreation, sports or culture, barbecue site and eating place 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 covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is partly vacant and covered by grass in the southern portion; and partly paved, erected with structures and used for the applied uses in the northern portion without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible to Chi Ho Road via local tracks (**Plans A-1 to A-3**). According to the applicant, the applied uses involve 16 single-storey holiday camp huts with heights of about 4.5m and a total floor area of about 544m²; as well as 14 structures, including canopy and retractable marquee structures, with heights ranging from about 2.4m to 8m and a total floor area of about 1,305m² for eating place, barbeque area, recreational, sports or cultural activities area, ancillary reception, office, store room, washroom and pump room (**Drawing A-1**). The recreational, sports or cultural activities to be held at the Site include wedding banquet, dancing, painting, drawing and yoga classes. The remaining

open area is mainly as lawn area for recreational, sports or cultural activities, parking, loading/unloading (L/UL) spaces and circulation. Ancillary solar panels are installed atop the holiday camp huts to support the operation of the applied uses and boundary fencing of 2.5m high along the periphery of the Site will be erected. The applicant also applies for regularisation of filling of land with an area of about 3,813m² (about 52%) with gravels or concrete of 0.2m in depth (to level of not more than 5.6mPD) for site formation and circulation (**Drawing A-2**). The proposed operation hours will be from 7 a.m. to 10 p.m. daily (except for overnight holiday camping activities) including Sundays and public holidays. No public announcement systems, whistle blowing or portable loudspeaker will be used at the Site. 20 parking spaces for private car and two L/UL spaces for light good vehicle and light bus will be provided at the Site. Visitors are required to reserve the parking spaces prior to their visits to the Site. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The northern portion of the Site is the subject of two previous applications (No. A/YL-KTN/536 and 693), both for temporary place of recreation, sports or culture (hobby farm) and caravan holiday camp submitted by a different applicant with a different layout from the current application, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in January 2017 and May 2020 respectively. The planning permission under the last application No. A/YL-KTN/693 was subsequently revoked in June 2022 due to non-compliance with approval condition. Details of the previous applications are given in paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 12.8.2024 and 19.8.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 17.9.2024* (**Appendix Ia**)
 - (c) FI received on 26.9.2024* (**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 the Application Form and FI at **Appendices I** to **Ib**, and can be summarised as follows:

- (a) The applied uses can cater for the demand for holiday camp and recreational, sports or cultural activities of the local residents. The temporary nature of the application will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The applied uses are not incompatible with the surrounding land uses. There are previous and similar applications approved within the same “AGR” zone. The associated filling of land area is considered necessary and has been kept to minimal for the applied use.

- (c) The applicant has submitted a fire service installations (FSIs) proposal in support of the application. Boundary fencing will be erected along the periphery of the Site and the drainage proposal will be implemented to avoid any adverse impact on the surrounding areas including the adjacent pond. Adverse traffic, environmental and fire safety impacts are not anticipated.
- (d) The applicant will submit Short Term Waiver (STW) application to the Lands Department (LandsD) for the applied uses to rectify the unauthorised structures and uses after approval of the current application.

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

The applicant is not a ‘current land owner’ but 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 posting site notices and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

The Site is currently not subject to any active planning enforcement action. Subject to the collection of sufficient evidence, appropriate enforcement action under Town Planning Ordinance would be undertaken.

5. Previous Applications

- 5.1 The northern portion of the Site is the subject of two previous applications (No. A/YL-KTN/536 and 693) both for temporary place of recreation, sports or culture (hobby farm) and caravan holiday camp (with filling of land for application No. A/YL-KTN/693) submitted by a different applicant with a different layout from the current application, which were approved with conditions by the Committee of the Board in January 2017 and May 2020 respectively mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comments or their technical concerns could be addressed by approval conditions. The planning permission under application No. A/YL-KTN/693 was subsequently revoked in June 2022 due to non-compliance with the approval condition related to implementation of FSIs proposal.
- 5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 11 similar applications (No. A/YL-KTN/772, 817, 829, 830, 833, 838, 844, 850, 859, 868 and 911) for various temporary holiday camp and/or place of recreation, sports or culture (including one for renewal of temporary approval granted and seven applications with filling of land) within or straddling the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between July 2021 and August 2023 on the similar considerations as mentioned in paragraph 5.1 above. Except application No. A/YL-KTN/830, the respective planning permissions under these applications were subsequently revoked between July 2022 and July 2024 due to non-compliance with the approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) partly vacant and covered by grass in the southern portion; and partly paved, erected with structures and used for the applied uses in the northern portion without valid planning permission; and
 - (b) accessible to Chi Ho Road via local tracks.
- 7.2 The surrounding areas are rural in character with an intermix of plant nurseries, grassland, ponds, vacant land and open storage yards.

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 for “AGR” zone, 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 the Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 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 in **Appendices III** and **IV** respectively.

9.2 The following government department has adverse comments on the application:

Land Administration

Comments of the District Lands Officer/Yuen Long (DLO/YL), LandsD:

- (a) he has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 1786, 1787 S.B and 1787 RP all in D.D. 107 and Lot Nos. 21, 22 and 28 all in D.D. 109 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) Lot No. 1786 in D.D. 107 is covered by STW No. 4848 and Lot Nos. 1787 S.B and 1787 RP in D.D. 107 are covered by STW No. 4849 for the purpose of “Temporary Place of Recreation, Sports or Culture (Hobby Farm and Caravan Holiday Camp)”;
- (d) there is/are unauthorised structure(s) and uses on the private lot(s). The lot owner(s) should immediately rectify/apply for regularisation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice; and
- (e) if the planning application is approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) shall apply to his office for an STW to permit the structure(s) erected within Lot Nos. 21, 22 and 28 in D.D. 109. The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the applied use is temporary in nature, only erection of temporary structure(s) will be considered.

9.3 The following government department does not support the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is partly a vacant land and partly erected with structures. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 20.8.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received, including one received from the Chairman of the Yuen Long Town Centre and Rural East Area Committee indicating no comment on the application; and two from the Conservancy Association and an individual objecting to the application mainly on the grounds that the applied uses are not in line with the planning intention of the “AGR” zone; the application is for brownfield use; the previous approval conditions were not complied with; and there would be adverse environmental impacts (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary holiday camp, place of recreation, sports or culture, barbecue site and eating place for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone 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. While the applied uses are not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, 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 Filling of land in the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring reinstatement of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.3 The Site is partly vacant and partly used for the applied uses, which are considered not incompatible with the surrounding areas that are rural in character with an intermix of plant nurseries, vacant land and open storage yards. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant adverse landscape impact arising from the applied uses is not anticipated and has no objection from landscape planning perspective.
- 11.4 DLO/YL, LandsD has adverse comments on the application in view of the unauthorised structure(s) and uses on the concerned lot(s) within the Site. In this regard, the applicant indicates that STW application for the applied uses will be followed up. An advisory clause on the need for rectifying or regularising the lease breaches with LandsD is recommended should the Committee approve the application.
- 11.5 Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services (D of FS), have no objection to or no adverse comment on the application. To address the technical requirements of

concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the applied uses

- 11.6 Part of the Site is the subject of two approved previous applications for temporary place of recreation, sports or culture (hobby farm) and caravan holiday camp as stated in paragraph 5.1. While the planning permission under the last application No. A/YL-KTN/693 was revoked due to non-compliance of approval conditions related to implementation of FSIs proposal, it was submitted by a different applicant and with a different layout from the current application. For the current application, the applicant has submitted a FSIs proposal which is considered acceptable by D of FS. Besides, there are 11 approved similar applications within or straddling the same "AGR" zone in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the public comments as mentioned in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comments mentioned in paragraph 10, the Planning Department considers that the applied uses 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 4.10.2027. 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 4.4.2025;
- (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 4.7.2025;
- (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 implementation of the accepted fire service installations 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 4.7.2025;
- (e) 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;

- (f) if any of the above planning condition (a), (b) or (d) 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
- (g) 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 applied uses with associated filling of land 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 retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification given 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 and supplementary information received on 12.8.2024 and 19.8.2024
Appendix Ia	FI received on 17.9.2024
Appendix Ib	FI received on 26.9.2024
Appendix II	Previous and Similar applications

Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2024**