

RNTPC Paper No. A/YL-KTN/746A
For Consideration by
the Rural and New Town
Planning Committee
on 28.5.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/746

Applicant : Mr. TSOI Tak Lee represented by Goldrich Planners & Surveyors Limited

Site : Lot 1353 in D.D. 109, Yuen Long, New Territories

Site Area : About 1,887m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9

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 proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground Only)’ is a Column 2 use under “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves two 1-storey structures (with building height of not more than 4.5 m) and a total floor area of about 375m² for reception, office, changing room, seating room, storage of farming tools, materials and crops, works area, and agricultural education room. The farming area of the Site will be about 1,029m² (about 55% of the Site) and soil/sand ground will be about 280m² (about 15% of the Site). About 578 m² (about 30% of the Site) will be paved with gravel. There will be no filling of land. No parking and loading/unloading space will be provided within the Site. The operation hours will be from 8:00 a.m. to 7:00 p.m. daily including public holidays. According to the applicant, no more than 10 visitors will be accommodated at the Site, and no public announcement system would be used at

the Site. The Site is accessible to Kong Po Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with supplementary statement and **(Appendix I)** plans received on 17.12.2020.
- (b) Further Information (FI) received on 30.3.2021 and **(Appendices Ia and Ib)** 20.5.2021 providing responses to departmental comments and clarifications
(exempted from publication requirement)

1.4 On 5.2.2021, the Committee agreed to defer a decision on the application to allow time for the applicant to prepare FI to address departmental comments. After deferral request, the applicant submitted FI in response to departmental comments. The application is 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 application form and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development is intended for small groups of people who would like to experience agricultural lifestyle and to promote agricultural activities and green lifestyle to the public. It also provides a place for environmental education and eco-tourism activities. Visitors can engage in agricultural activities throughout the week. Daily agricultural works will be maintained by the staff, who are hired from nearby village.
- (b) There are two approved applications for temporary hobby farm in the vicinity of the same “AGR” zone. The development is compatible with the surrounding low-density developments and will not create adverse visual impact. It improves environmental quality in the vicinity and benefits the local community.
- (c) The paved area below the structures provides a water proofing layer and prevents water soaked into the structures, as well as a buffer from the unpaved area. The other paved area is for footpath from the entrance to the structures. Also, the proposed structures serve various functions for the proposed development. The paved area and the area of the structures are kept to a minimum. The Site will be reinstated upon expiry of the planning approval.

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. 31A) by posting site notice and sending notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

The Site is not subject to any previous application.

6. **Similar Applications**

- 6.1 There are 32 similar applications for temporary hobby farm concerning 22 sites within the same “AGR” zone. Except Application No. A/YL-KTN/394, all the similar applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2015 and 2021 for a period of 3 or 5 years. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

31 Approved Applications

- 6.2 31 applications for temporary hobby farm (five with caravan holiday camp) were approved between 2015 and 2021 mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; they would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts; and concerned departments had no objection to the application. However, the planning permissions for 13 of them were revoked due to non-compliance with approval conditions.

1 Rejected Application

- 6.3 Application No. A/YL-KTN/394 for proposed temporary field study/education centre and hobby farm for a period of 5 years was rejected by the Board on review in 2013 mainly on the grounds that the site was the subject of unauthorized land filling and the fill material was not suitable for cultivation; there was no detailed information regarding the design and operation of the proposed development; the applicant failed to demonstrate that the development would not generate adverse

landscape and drainage impacts on the surrounding areas; and approving the application would set an undesirable precedent and the cumulative effect of which would result in general degradation of the rural environment of the area.

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

7.1 The Site is:

- (a) vacant; and
- (b) accessible from Kong Po Road via a local track.

7.2 The surrounding areas are rural in character predominated by residential dwellings/structures, an open storage yard and vacant/unused land:

- (a) to its north are residential dwellings/structures, an open storage yard and unused land;
- (b) to its east, south and west are vacant/unused land; and
- (c) to its further east and south is Kong Po Road. Across the road is Kam Tin River and a nullah.

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 summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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.

- (b) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) Kong Po Road is not maintained by his department.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture and Nature Conservation

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

- (a) 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.

- (b) The Site is vacant with a watercourse running along the western boundary of the Site. Should the application be approved, the applicant should avoid adversely affecting the watercourse concerned.

Environment

9.1.5. Comments of the Director of Environmental Protection (DEP):

- (a) Provided that the applicant would minimise any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective subject to the following approval condition:

“No public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period.”

- (b) The applicant is advised (i) to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance; (ii) to provide adequate supporting infrastructure / facilities for proper collection, treatment and disposal of waste / wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test; and (iii) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.
- (c) There was no environmental complaint concerning the Site received by DEP in the past three years.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 18.2.2020, the Site is situated in an area of rural inland plains landscape character comprising of scattered tree groups, temporary structures, open storage, vehicle park, active and abandoned farmlands. Village houses are found within “Village Type Development” zone to the north of the Site. The proposed development is considered not incompatible with the surrounding landscape setting.
- (c) Referring to site photos dated 8.1.2021, the Site is vacant and no existing tree is found within the Site. Significant adverse impact to the existing landscape resources arising from the proposed use within the Site is not anticipated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (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.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.

- (b) Should the application be approved, approval conditions on the submission of a drainage proposal, implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix IV**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any locals' comment on the application and he has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager/West, Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 29.12.2020, the application was published for public inspection. During the three-week statutory publication period, three public comments from Hong Kong Bird Watching Society, Designing Hong Kong and an individual were received (**Appendix III-1 to III-3**). All of them object to the application mainly on the grounds that the Site is

subject to previous planning enforcement cases and “destroy first, build later” practice should not be encouraged; approval of the application would set an undesirable precedent and reduce the amount of arable land; and the number of similar operations approved in Kam Tin North should be taken into account.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years in the “AGR” zone. 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. According to the applicant, about 55% of the Site will be used for farming. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view on the application from agricultural point of view. It is considered that temporary approval of the application will not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with residential dwellings/structures and vacant/unused land. According to the applicant, area of the proposed structures and paved area have kept to a minimum for operational need.
- 11.3 According to the applicant, public announcement system will not be used at the Site and no parking and loading/unloading space will be provided at the Site. In view of the nature of the proposed hobby farm, it would unlikely cause significant adverse traffic, landscape, environmental or drainage impacts on the surroundings. Relevant departments consulted, including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting the use of public announcement system at the Site are recommended in paragraph 12.2 (a) and (b) below. The applicant will also be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (g) below.
- 11.4 The Site is not subject to any previous application. There are 31 similar applications for temporary hobby farm within the same “AGR” zone approved by the Committee between 2015 and 2021 (paragraph 6 and **Plan A-1** refer). The circumstances of the only rejected similar application, as detailed in paragraph 6.3, are different. Approval of this application is in line with the Committee’s previous decisions on similar applications.
- 11.5 Three public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard,

the departmental comments and planning assessments and considerations above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 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 3 years until 28.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the submission of 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 28.11.2021;
- (d) in relation to (c) above, the implementation of 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 28.2.2022;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of fire service installations 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 28.11.2021;
- (g) in relation to (f) above, the implementation of 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 28.2.2022;

- (h) if any of the above planning conditions (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 conditions (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 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 proposed 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. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been 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 supplementary statement and plans received on 17.12.2020
Appendices Ia and Ib	FIs received on 30.3.2021 and 20.5.2021
Appendix II	Similar applications within the same “AGR” zone on the Kam Tin North OZP
Appendices III-1 to III-3	Public comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2021**