

RNTPC Paper No. A/YL-KTN/758
For Consideration by
the Rural and New Town
Planning Committee
on 30.4.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/758

Applicant : Mr. TANG Wai Ip

Site : Lot 1211 in D.D. 107, Kam Tin North, Yuen Long, New Territories

Site Area : About 737.1m²

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 partly vacant and partly hard-paved with two containers (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/620) submitted by the same applicant for the same applied use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.9.2018 for a period of 3 years. However, the planning permission was revoked on 7.2.2021 due to non-compliance with approval conditions.
- 1.3 According to the applicant, the proposed development involves five 1-storey structures (with building height of not more than 3.5 m) and a total floor area of about 79.3 m² for learning centre and lounge, storage, electric meter room and open shed. The farming area of the Site will be about 515m² (about 69.9% of the

Site) and the remaining area will be paved with soil and concrete on top. There will be no filling of land. 1 private car parking space and 1 loading/unloading space for light goods vehicle will be provided at the Site. The operation hours will be 9:00 a.m. to 6:00 p.m. daily including public holidays. According to the applicant, no more than 15 visitors will be accommodated at the Site, and no public announcement system would be used at the Site. The Site is accessible from Castle Peak Road – Tam Mi and Shui Mei Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 Compared with the previous approved application No. A/YL-KTN/620, the current application is for the same use, site area, total floor area and similar layout, but with reduction of two private car parking spaces and increase of one loading /unloading space for light goods vehicle.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary statement and **(Appendix I)** plans received on 5.3.2021.
 - (b) Further Information (FI) received on 21.4.2021 **(Appendix Ia)** providing responses to departmental comments and clarifications
(exempted from publication requirement)

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 and Ia**. They can be summarized as follows:

- (a) The proposed use is on a temporary basis and will not jeopardize the long-term planning intention of the “AGR” zone. Similar applications for place of recreation, sports or culture (hobby farm) in the same “AGR” zone have been approved. The proposed use and layout is not incompatible with the surrounding environment. The landscaping proposal will enhance the environment of the Site and surroundings. The drainage proposal will reduce the possibility of flooding.
- (b) There is no major change from the previous application (No. A/YL-KTN/620). Since the applicant was not able to obtain the Short Term Waiver (STW) from the Lands Department and complete the relevant implementation works in time, the current application was submitted for the proposed use. The applicant commits to comply with the approval conditions should the current application be approved.
- (c) The paved area, which will use soil as foundation and concrete on top, will provide a clean environment for the visitors and avoid soil erosion. The paved area will also stabilize the structures, provide manoeuvring and parking spaces for

vehicles and facilitate drainage works. The proposed structures are for the use of visitors and storage of farming tools/seeds. The area for structure and paved area is kept to a minimum for operational need. The paving will be removed upon expiry of the planning approval and the Site will be reinstated to a condition suitable for agricultural use.

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 the subject of a previous application (No. A/YL-KTN/620) submitted by the same applicant for the same use as the current application. It was approved with conditions for 3 years by the Committee on 7.9.2018 mainly on the consideration that approval of the application would not frustrate the long-term planning intention of the “AGR” zone; it was not incompatible with the surrounding land uses; it would unlikely cause significant adverse traffic, landscape or drainage impacts; and relevant departments consulted had no adverse comment. While the approval conditions on submission of landscape, drainage and fire service installations (FSIs) proposals have been complied with, those requiring the implementation of these proposals have not been complied with. Hence, the permission was revoked on 7.2.2021. Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are a total of 30 similar applications for temporary hobby farm concerning 21 sites within the same “AGR” zone. Except Application No. A/YL-KTN/394, all the similar applications were approved with conditions by the Committee between 2015 and February 2021 for a period of 3 or 5 years. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

29 Approved Applications

- 6.2 29 applications for temporary hobby farm (five with caravan holiday camp) were approved between 2015 and February 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 ten 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) partly vacant and partly hard-paved with two containers; and
- (b) accessible from Castle Peak Road – Tam Mi and Shui Mei Road via a local track.

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

- (a) to its north, east and west are residential dwellings/structures, open storage/storage yards and unused/vacant land. Further north and northeast are residential dwellings/structures, unused/vacant land and storage yards within an area zoned “Industrial (Group D)”; and
- (b) to its south are unused/vacant land, a plant nursery, and animal boarding establishments.

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) Lot No. 1211 in D.D. 107 is covered by Short Term Waiver (STW) No. 5241 to permit structures erected thereon for the purpose of “Temporary Place of Recreation, Sports or Culture (Hobby Farm)”.
- (c) Should planning approval be given to the planning application, the STW holder will need to apply to his office for modification of the STW conditions where appropriate. 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) Should the application be approved, approval conditions on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by 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) Shui Mei Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam 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) Noting its previous application for the same use has been approved by the Board taken into account his comments/concerns on conservation aspects, he has no strong view against the current application from nature conservation point of view.

Environment

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

- (a) He has no objection to the application.
- (b) The applicant is advised to (i) 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 soakway 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; (iii) to minimise any noise from the proposed use, the use of public announcement systems, audio amplifier and loudspeakers shall be prohibited; and (iv) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances, and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site.
- (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) The Site is located to the south of Lam Tsuen Country Park. Based on the aerial photo take in 2020, the Site is situated in an area of settled valleys landscape character comprising of farmlands, temporary structures, vacant land and scattered tree groups. According to site photos on 16.3.2021, the Site is vacant without trees or other significant vegetation. Significant adverse impact to the existing landscape resources arising from the same 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 (BO) (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 and 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 in the planning approval.

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 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 V**.
- (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/New Territories West, Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 16.3.2021, the application was published for public inspection. During the three-week statutory publication period, 2 public comments from a Yuen Long District Council Member and an individual were received (**Appendix IV-1 to IV-2**). They object to the application mainly on the grounds that the transport service in Kam Tin cannot accommodate the influx of visitors in the area and the proposed development will affect local residents' daily lives; and arable land should be used for real farming.

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 at the "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish pond 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 69.9% 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 areas which are rural in character intermixed with residential dwellings/structures, animal boarding establishment and vacant/unused land. According to the applicant, the 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. 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 are recommended in paragraph 12.2 (a) and (b) below. Besides, the applicant will also be advised to adopt the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (c) to (h) below.
- 11.4 The Site is subject to a previous application (No. A/YL-KTN/620) submitted by the same applicant for the same use as the current application which was approved with conditions for 3 years by the Committee in 2018. While the applicant complied with the conditions on submission of landscape, drainage and FSIs proposals, the planning permission was revoked due to non-compliance with approval conditions on implementation of these proposals. The applicant explained that he was not able to obtain the STW from LandsD and complete the relevant implementation works in time. The applicant committed to comply with all the approval conditions if the current application is approved. When compared with the previous approved application, the current application is subject to the same site area, farming area and floor area. There is no major change in planning circumstance since the last approval. It is considered that sympathetic consideration could be given to the current application. Shorter compliance periods are proposed to monitor the progress of compliance of approval conditions should the Committee decide to approve the current application. The applicant will be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There are 29 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.

- 11.6 Two 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 30.4.2024. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 30.7.2021;
- (e) in relation to (d) above, the implementation 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 30.10.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.7.2021;

- (h) in relation to (g) above, the implementation 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 30.10.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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
- (k) 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 V**.

- 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 plans received on 5.3.2021
Appendix Ia	FI received on 21.4.2021
Appendix II	Previous application covering the Site
Appendix III	Similar applications within the same “AGR” zone on the Kam Tin North OZP
Appendices IV-1 to IV-2	Public comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with previous and similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2021**