

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/782**

<b><u>Applicant</u></b>	: Mr. TANG Kam Shing
<b><u>Site</u></b>	: Lot 1456 in D.D. 107, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 1,677.6m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years and Filling of Land

**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 and filling of land. 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). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is partly paved and partly vacant (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/630) for the same use (without filling of land) submitted by the same applicant which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 18.1.2019. However, the planning permission was revoked in 2021 due to non-compliance with approval conditions.
- 1.3 The proposed development involves seven 1-storey structures with building height of not more than 3.5m and a total floor area of about 128.1m<sup>2</sup> for reception and learning centre, farm tool storage, farm lounge, electric meter room and three canopies. The farming area of the Site will be about 1,185m<sup>2</sup> (about 70.6% of the Site). The remaining area of about 492.6m<sup>2</sup> (about 29.4% of the Site) will be paved by concrete by not more than 0.3m in depth (from about 6.8mPD to 7.1mPD) for site formation of structures, vehicle circulation and car parking. 3 private car parking spaces will be provided within the Site. The operation hours will be 6:00a.m. to 9:00p.m. daily including public holidays. According to the applicant,

no more than 15 visitors on weekdays and 25 visitors on weekends will be accommodated at the Site, and no public announcement system will be used at the Site. The Site is accessible from Shui Mei Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 When compared with the last approved application (No. A/YL-KTN/630), the current application submitted by the same applicant is the same in terms of use (except with filling of land), site area/ boundary and layout except with a slight increase in total floor area (+1.1m<sup>2</sup>/ +0.87%) and farming area (+5.4m<sup>2</sup>/ +0.46%).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form and plans received on 20.7.2021 **(Appendix I)**
  - (b) Further Information (FI) received on 2.9.2021 in response to departmental comments **(Appendix Ia)**  
*[exempted from publication requirement]*
  - (c) FI received on 3.9.2021 in response to departmental comments **(Appendix Ib)**  
*[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, plans and FIs at **Appendices I, Ia and Ib** and are briefly 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. The Site is the subject of a previous application for temporary hobby farm and some similar applications for hobby farm within the same “AGR” zone have been approved. The proposed use is not incompatible with the surrounding environment.
- (b) The paved area, which used concrete as top, is for site formation. 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.
- (c) The Site has been operating as hobby farm since the last approval. The applicant will make effort to comply with approval conditions after planning approval is obtained.

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

The applicant is not the “current land owner” of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site 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 planning enforcement action.

#### 5. **Previous Application**

The Site is the subject of a previous application (No. A/YL-KTN/630) submitted by the same applicant for the same use (except without filling of land). It was approved with conditions for 3 years by the Committee on 18.1.2019 mainly on the considerations 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, the planning permission was revoked on 18.6.2021 owing to non-compliance with approval conditions on implementation of these proposals. Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**. Compared with the last approved application No. A/YL-KTN/630, the current application is the same in terms of use (except with filling of land), site area/ boundary and layout except with a slight increase in total floor area and farming area.

#### 6. **Similar Applications**

##### Hobby Farm

- 6.1 There are 26 similar applications for temporary hobby farm concerning 16 sites in the vicinity of the Site 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 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**.

##### *25 Approved Applications*

- 6.2 25 applications for temporary hobby farm (four 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 10 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; and approving the application would set an undesirable precedent.

#### Land Filling

- 6.4 There are eleven applications involving filling of land within the same “AGR” zone. Five are for temporary hobby farm and/ or caravan holiday camp (Applications No. A/YL-KTN/691, 693, 726, 745 and 772), which involved filling of about 10% to 30% of the site area and with a depth of 0.2m. The remaining six are for animal boarding establishment (Applications No. A/YL-KTN/716, 752, 759, 769, 771 and 775), which involved filling of about 9% to 38% and the entire site respectively for the applied use. Except No. A/YL-KTN/759, all applications were approved with conditions by the Committee between May 2020 and July 2021 for the reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; and the relevant government departments generally had no adverse comments on the developments.

### **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

#### **7.1 The Site is:**

- (a) partly paved and partly vacant; and
- (b) accessible from Shui Mei Road via a local track.

#### **7.2 The surrounding area is rural in character predominated by hobby farms, ponds, residential structures/dwellings, fallow/cultivated agricultural land, animal boarding establishment and vacant/unused land:**

- (a) to its north and east are cultivated/fallow agricultural land, ponds, unused land and ruins;
- (b) to its south are a hobby farm (including Application No. A/YL-KTN/697), animal boarding establishments (including Applications No. A/YL-KTN/724 and 743), residential structures/dwellings and vacant/unused land
- (c) to its west and northwest are fallow agricultural land, residential structures/dwellings, a vehicle workshop, a storage yard and a vacant chicken shed.

### **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 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 Relevant Government Department**

- 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 1456 in D.D. 107 is covered by Short Term Waiver (STW) No. 5244 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 landlord or lessor at its sole discretion and there is no guarantee that such application 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) No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.
- (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/New Territories 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 Castle Peak Road – Tam Mi.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

**Agriculture and Nature Conservation**

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

- (a) He has no strong view against the application for proposed hobby farm use and land filling from agricultural point of view on the understanding that agricultural activities are involved and the Site will be reinstated upon the expiry of the planning permission.
- (b) He notes that the proposed use is unlikely to impose ecological impacts to the nearby fishponds. As such, he has no strong view against the planning application from nature conservation perspective.

**Environment**

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) He has no objection to the application.
- (c) 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) that no public announcement system or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period, as proposed by the applicant; (iii) 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 the case of unavailability of public sewer, its design and construction shall follow the requirements of 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 (iv) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

### **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 landscape planning perspective.
- (b) Based on the aerial photo taken in 2020, the Site is situated in an area of rural inland plains landscape character predominated by farmlands, temporary structures, Small Houses and scattered tree groups. The proposed use is considered not entirely incompatible with the surrounding landscape setting. According to site photos taken on 30.7.2021, the Site is partly bare ground and partly paved by concrete. There is no significant tree within the Site. Only 6 newly planted *Ficus microcarpa* (細葉榕) under previous application (No. A/YL-KTN/630) are found along the southern boundary within the Site. As there is no significant change to the proposed layout of the development and the proposed development is not in conflict with any existing trees, no significant adverse impact on the existing landscape resource is anticipated.
- (c) According to site inspection on 30.7.2021, the 6 newly planted *Ficus microcarpa* (細葉榕) under previous application (No. A/YL-KTN/630) are found with sparse foliage due to infestation. The applicant should carry out appropriate remedial actions, such as pest control, in a timely manner.

### **Drainage**

9.1.7 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 requiring 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.

### **Fire Safety**

#### 9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to 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.

### **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 Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) 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 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):

He has not received any comments from the locals and has no comment on the application.

### **Electricity**

#### 9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment from electricity supply safety point



of view.

- (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, design, organizing, supervising and conducting any activity near the underground cable or overhead line under the Site should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where appropriate) to find out whether there is any underground cable and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

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

## **10. Public Comments Received During the Statutory Publication Period**

On 27.7.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals were received (**Appendix IV-1 and IV-2**). All of them object to the application mainly on the grounds that there are many hobby farms within Kam Tin District which will increase the traffic burden; and the previous application was revoked due to non-compliance with the approval conditions.

## **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, with filling of land at part of the Site (492.6m<sup>2</sup>/ 29.4%) by 0.3m in depth. 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 70.6% 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 hobby farms, ponds, residential structures/dwellings, fallow/cultivated agricultural land, animal boarding establishments and vacant/unused land. According to the applicant, the proposed

structures and paved area have been kept to a minimum for operational need. CE/MN of DSD has no in-principle objection to the application.

- 11.3 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 vehicle type, and prohibiting the use of public announcement system at the Site are recommended in paragraphs 12.2 (a) to (c) 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 C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (d) to (i) below.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/630) for the same use (without filling of land) submitted by the same applicant which was approved by the Committee in 2019. When compared with the previous approved application, the current application is subject to the same site area, boundary and floor area. There is no major change in planning circumstance since the last approval. Nevertheless, the planning permission was revoked due to non-compliance with approval conditions on implementation of landscape, drainage and fire service installation proposals. In the current application, drainage and FSI proposals are submitted in support of the application, CE/MN of DSD and D of FS have no adverse comment on the application. The applicant committed to comply with all the approval conditions if the current application is approved.
- 11.5 As the last approved application (No. A/YL-KTN/630) submitted by the same applicant as the current application was revoked due to non-compliance with approval conditions as stated in paragraph 5 above, shorter compliance periods are recommended to monitor the progress of compliance of approval conditions should the Committee decide to approve the current application. The applicant will also 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.
- 11.6 There are 25 similar applications for temporary hobby farm and 10 applications involving filling of land in the vicinity of the Site 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 in that the Site was involved in unauthorized filling of land which was not suitable for cultivation. Approval of this application is in line with the Committee’s previous decisions on previous and similar applications.
- 11.7 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 above, the Planning Department has

no objection to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years and filling of land.

- 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 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00p.m. and 6:00a.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 medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a 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 10.12.2021;
- (f) in relation to (e) above, the implementation of the 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 10.3.2022;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a 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 10.12.2021;
- (i) in relation to (h) above, the implementation of the 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 10.3.2022;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;

- (k) if any of the above planning conditions (e), (f), (h) or (i) 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
- (l) 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, and 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**

<b>Appendix I</b>	Application Form received on 20.7.2021
<b>Appendix Ia</b>	FI received on 2.9.2021
<b>Appendix Ib</b>	FI received on 6.9.2021
<b>Appendix II</b>	Previous Application covering the Site
<b>Appendix III</b>	Similar Applications in the vicinity of the Site within the same "AGR" zone on the Kam Tin North OZP
<b>Appendices IV-1 and IV-2</b>	Public Comments received during the Statutory Publication Period

<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Previous and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2021**