

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/802

<u>Applicant</u>	: Mr. TANG Wai-IP
<u>Site</u>	: Lot 1397 (Part) in D.D. 107, Kam Tin North, Yuen Long, N.T
<u>Site Area</u>	: About 960m 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/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 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 5 years and filling of land. The Site falls within an area zoned “AGR” on the OZP. 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 occupied by construction materials and machineries and partly vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of five 1-storey structures with building height ranging from 3m to 4m and a total floor area of about 121m² for electric meter room, farm reception, farm lounge, ancillary storage and open shed. The farming area of the Site will be about 620.3m² (about 64.6% of the Site) while the remaining area of 339.7m² (about 35.4% of the Site) will be paved by concrete by not more than 0.3m in depth (not more than +10.7mPD) for site formation of structures, vehicle circulation and car parking. One private car parking space and one loading/unloading space for light goods vehicle will be provided on the Site. The operation hours will be 9:00a.m. to 6:00p.m. daily including public holidays. The applicant estimated that about 5 to 10 visitors on weekdays and about 10 to 15 visitors on weekends will be accommodated at the Site. 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**.

- 1.3 The Site is the subject of a previous application (No. A/YL-KTN/626) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information **(Appendix I)**
received on 17.11.2021
 - (b) Further Information (FI) received on 18.3.2022 **(Appendix Ia)**
 - (c) FI received on 3.5.2022 **(Appendix Ib)**
- 1.5 On 14.1.2022, the Rural and New Town Planning Committee (the Committee) agreed to defer a decision on the application to allow time for the applicant to prepare FI to address departmental comments. The applicant submitted FI on 18.3.2021 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, supplementary information and FIs at **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development is on a temporary basis with no permanent buildings, which will not jeopardize the long-term planning intention. Several similar applications in the vicinity for hobby farm have been approved by the Committee and the same planning considerations should be given to the application.
- (b) The paved area at the Site is to reinforce the site foundation of structures, facilitate manoeuvring of vehicles / circulation of visitors, and provide a clean place for the visitors to rest. The paved area will be reinstated when the planning permission lapses.
- (c) The applicant will provide landscaping and drainage facilities with mitigation measures to enhance the environment quality and to minimize flooding risk. The proposed structures are located away from the adjoining stream course / pond and no chemical cleaner will be used. The proposed drainage facilities on-site will be cleaned regularly to minimize potential pollution risk. Adverse environmental and traffic impacts are not anticipated.
- (d) The application details are in general the same as that in the last approval (Application No. A/YL-KTN/626), the planning permission of which was nevertheless revoked owing to non-compliance with approval conditions. In this regard, the applicant stated that it was because the Short-Term Waiver approval could not be obtained timely for commencement of the construction works. In the current application, the applicant has included the relevant proposals for

consideration of concerned departments. The applicant will comply with all the approval conditions after obtaining the planning approval.

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

- 5.1 The Site is the subject of a previous application (No. A/YL-KTN/626) 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**.
- 5.2 When compared with the last approved application (No. A/YL-KTN/626), the current application is the same in terms of use (except with filling of land), total floor area, and number of structures except with a change in the period of the applied use (5 instead of 3 years), building height (+0.5m/+14.3%), site area (-101m/-9.5%), farming area (-79.7m²/ -11.4%) and paved area (-21.3m²/ -5.9%); and slight change in layout.

6. Similar Applications

There are 23 similar applications for temporary hobby farm (with 6 involves filling of land) concerning 19 sites in the vicinity of the Site within the same “AGR” zone within the past 5 years. All the applications were approved with conditions by the Committee between 2017 and 2021 mainly for the same reasons as stated in paragraph 5.1 above. However, the planning permissions for nine of them were revoked due to non-compliance with approval conditions. Details of these similar applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) partly vacant and partly occupied by construction materials and construction machinery; and
- (b) accessible from Shui Mei Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are vacant land, grassland and a stream course. Further north / northeast and northwest are storage yards, residential dwellings/structures, a privately operated outbound training centre and vacant land;
- (b) to its east are a dog kennel (with valid planning permission) and vacant land / grassland. To its further southeast across a stream course is an area zoned “Conservation Area” mainly occupied by wood land and a domestic dwelling; and
- (c) to its west and southwest is a stream course, a pond, residential dwellings / structures, fallow agricultural land and grassland.

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, 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

Government 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 IV and V** respectively.

10. Public Comments Received During the Statutory Publication Period (Appendix III)

The application was published for public inspection. During the three-week statutory publication period, five public comments from Kadoorie Farm & Botanical Garden Corporation, the Conservancy Association and individuals were received. The commenters object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; approval of the application will set an undesirable precedent as the Site may be involved in ‘destroy first, develop

later' activities; filling of land is not necessary for the proposed hobby farm use; the proposed development will pose a risk to the ecosystem nearby; and the Site falls within the Sha Po Tsuen area.

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 5 years in the “AGR” zone, with filling of land at part of the Site (about 339.76m²/ about 35.4%) 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 64.6% (or 620.3m²) 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. Filling of land within the “AGR” zone requires planning permission from the Board. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 11.2 The proposed use is considered not incompatible with the surrounding land uses which are rural in character predominated by storage yards, residential dwellings/structures, pond, grassland and vacant land.
- 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 potential impacts that may be caused by the proposed use and 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 adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/626) for the same use submitted by the same applicant which was approved in 2019. Nevertheless, the planning permission was revoked in June 2021 due to non-compliance with approval conditions related to the implementation of landscape, drainage and FSIs 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 whilst CTP/UD&L of PlanD has no objection to the application and considers that significant adverse impact on existing landscape resources is not anticipated.
- 11.5 Should the Committee decide to approve the application, shorter compliance periods on the approval conditions are recommended to closely monitor the progress of compliance. 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 23 similar applications for temporary hobby farm and 6 of which involve filling of land in the vicinity of the Site within the same “AGR” zone. All applications were approved by the Committee between 2017 and 2021 for reasons as stated in paragraph 6 above. Approval of this application is in line with the Committee’s previous decisions on previous and similar applications.
- 11.7 Five 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 5 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 5 years until 6.5.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) 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 submission of a revised 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 6.8.2022;
- (c) in relation to (b) above, the implementation of the revised 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 6.11.2022;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a revised 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 6.8.2022;
- (f) in relation to (e) above, the implementation of the revised 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 6.11.2022;

- (g) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if any of the above planning conditions (b), (c), (e) or (f) 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.

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

Appendix I	Application form with supplementary information received on 17.11.2021
Appendix Ia	FI received on 18.3.2022
Appendix Ib	FI received on 5.3.2022
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
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
MAY 2022**