

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/806

<u>Applicant</u>	: Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1058 RP, 1059 RP, 1060 and 1061 in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, N.T.
<u>Site Area</u>	: About 912m 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 is 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 deposited with construction debris and partly overgrown with weeds (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of four 2-storey structures with building height of about 7m and a total floor area of about 288m² for reception, site office, storage of farm tools, plant nursery, changing room and toilet. The remaining area of the Site will be used as farming area (about 551m² or 60% of the Site), landscaping area (about 139m² or 15.2% of the Site). About 222m² (or about 24.3% of the Site) will be paved by concrete by not more than 0.2 m in depth (from about + 6.5mPD to + 6.7mPD) for site formation of structures and circulation space. No private car parking and loading/unloading space will be provided on the Site. The visitors / staff will gain access to the Site by public transport services at Fung Kat Heung Road and walk to the Site via the local access. The operation hours will be 9:00a.m. to 6:00p.m. daily including public holidays. The applicant estimated that no more than 20 visitors will be accommodated at the

Site daily and the number of staff working at the Site is 5. Loudspeakers, audio amplifier and public announcement system will not be used at the Site. The Site is accessible from Fung Kat Heung Road via Mei Fung Road and a local access. The site layout plan and the paved ratio plan submitted by the applicant is at **Drawings A-1 and A-2**.

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

- (a) Application form with plans received on 30.11.2021 **(Appendix I)**
- (b) Further Information (FI) received on 23.3.2022 **(Appendix Ia)**
- (c) FI received on 16.5.2022 **(Appendix Ib)**

1.4 On 28.1.2022, 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 23.3.2022 and 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, plans and FI at **Appendices I and Ia** and are briefly summarized as follows:

- (a) The proposed development is on a temporary basis and will not jeopardize the long-term planning intention. The Site will be reinstated to a condition suitable for agricultural use after the planning approval period.
- (b) Large amount of space will be reserved as farmland area for the use of visitor. The farming activity is similar to the always permitted agricultural use.
- (c) The proposed development would not generate adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.
- (d) The applicant will follow the Professional Persons Environmental Consultative Committee Practice Notes for sewage treatment at the Site.
- (e) The applicant will follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to minimize possible environmental impacts on the nearby sensitive receivers.

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 not involved in any previous application.

6. Similar Applications

There are 25 similar applications for temporary hobby farm (8 of which with filling of land) in the vicinity of the Site within the same "AGR" zone in the past 5 years. All applications were approved with conditions by the Committee 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 generally had no objection to the application or their concerns could be addressed by relevant approval conditions. However, the planning permissions for eight of them were revoked due to non-compliance with approval conditions. Details of the 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 deposited with some construction debris and mainly covered by weeds; and
- (b) accessible from Fung Kat Heung Road via Mei Fung Road and a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north across a nullah are cultivated agricultural land and a hobby farm;
- (b) to its east and south are cultivated/fallow agricultural land, grassland, storage yards and vacant land; and
- (c) to its west are cultivated agricultural land and a plant nursery.

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

The 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 III and IV** respectively.

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

The application was published for public inspection. During the three-week statutory publication period, six public comments from individuals were received. All of them object to the application mainly on the grounds that the proposed development would result in potential adverse traffic, environmental and noise nuisance to the nearby residents; the application is not for hobby farm use; the proposed access route will need to pass through a section of Drainage Maintenance Access; and the setting of undesirable precedent.

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 (222m² / about 24.3%) by not more than 0.2 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 60% (or about 551m²) of the Site will be used for farming purpose. 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 as it may cause adverse drainage and environmental impacts on the adjacent areas. 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 intermixed by cultivated/fallow agricultural land, grassland, a hobby farm, a residential structure/dwelling, a plant nursery and storage yards.
- 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 minimise any potential environmental nuisances and to address the technical

requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP.

- 11.4 There are 25 similar applications for temporary hobby farm, 8 of which with filling of land within the same "AGR" zone in the vicinity of the Site approved by the Committee between 2017 and 2021 (paragraph 6 and **Plan A-1** refer). Approval of this application is in line with the Committee's previous decisions on similar applications.
- 11.5 Regarding the public comments received during the statutory publication period objecting to the application as stated in paragraph 10 above, the departmental comments and planning considerations and assessments 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 20.5.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.11.2022;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.2.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a 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 20.11.2022;
- (e) in relation to (d) above, the implementation of the 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 20.2.2023;

- (f) the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 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, 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 plans received on 30.11.2021
Appendix Ia	FI received on 23.3.2022
Appendix Ib	FI received on 16.5.2022
Appendix II	Similar applications within the same "AGR" zone in the vicinity of the Site
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses

Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paved ratio 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 2022**