

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/812

<u>Applicant</u>	: Mr. LAI Kwok Man represented by Goldrich Planners and Surveyors Ltd.
<u>Site</u>	: Lot 1020 (Part) in D.D. 109, Yuen Long, New Territories
<u>Site Area</u>	: About 1,647m 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. 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 vacant and covered by weeds (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of two 2-storey structures with building height of not more than 6.5m and a total floor area of about 420m² for storage of farm tools and materials, ancillary offices, sitting rooms and toilets of the proposed hobby farm. The farming area of the Site will be about 1,119m² (about 68%). The remaining area of about 528m² (about 32% of the Site) will be paved by concrete by not more than 0.1m in depth (from about 10.9mPD to 11.0mPD) for site formation of structures and vehicle manoeuvring. 2 private car parking spaces and 1 parking space for light goods vehicle will be provided within the Site. The operation hours will be from 8:00a.m. to 7:00p.m. daily including Sundays and public holidays. Not more than 10 visitors during the weekends will be accommodated at the Site, and no public announcement system will be used at the Site noting that there are residential dwellings in its vicinity. The Site is accessible from Kong Tai Road. The site 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 information (Appendix I)
received on 20.12.2021
- (b) Further Information (FI) received on 14.2.2022 *and* (Appendix Ia)
15.2.2022 in response to departmental comments
[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, supplementary information and FI at **Appendices I and Ia**, 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. A few applications for temporary hobby farm within the same “AGR” zone have been approved. The proposed use is not incompatible with the surrounding environment.
- (b) Filling of land at a portion (about 32%) of the Site is required for site formation and vehicular circulation. The area for structure and paved area is kept to a minimum for meeting its operational need.
- (c) The proposed development provides a place for environmental education and eco-tourism activities. It can promote agricultural activities and green lifestyle to the public, improve environmental quality in the vicinity and benefits the local community.
- (d) The proposed hobby farm would not generate adverse traffic, environmental and drainage impacts on the surrounding areas. ***The applicant will reinstate the Site upon expiry of 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 Pat Heung 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 three similar applications (involving two sites) for temporary hobby farm in the vicinity of the Site within the same “AGR” zone between 2017 and 2021, all of which were approved with conditions by the Rural and New Town Planning Committee (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 government departments had no objection to the application or their concerns could be addressed by relevant approval conditions. Details of these applications are summarized in **Appendix II** and their 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) vacant and covered by weeds; and
- (b) accessible from Kong Tai Road.

7.2 The surrounding area is rural in character predominated by residential structures/dwellings, fallow/cultivated agricultural land, hobby farms, open storage/ storage yards, parking of vehicles, vacant land / structures and vegetated land:

- (a) to its north and east are residential structures/dwellings (the nearest is to the immediate north), cultivated/fallow agricultural land, vacant chicken shed, a storage yard and vacant / vegetated land;
- (b) to its south and southeast are a hobby farm (with works in progress), residential structures/dwellings, fallow agricultural land and vacant land; and
- (c) to its west and northwest are a hobby farm, the site (now under active farming) approved for temporary animal boarding establishment (under Application No. A/YL-KTN/756), cultivated agricultural land and residential structures/ dwellings To the further northwest, across Kam Tin River, are an open storage yard cum office, and parking of vehicles.

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

- 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 1020 in D.D. 109 is subject to Modification of Tenancy/ Letter of Approval No. MNT 14855 for Kitchen, Accommodation, Porch, Pigsty and Chicken Shed.
- (c) 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 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) The applicant should be reminded that sufficient manoeuvring space shall be provided within the Site. 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 the Transport Department. The land status of the local access road should be checked with 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) Part of Kong Tai Road is maintained by HyD.
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kong Tai Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Agriculture

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

The Site falls within the “AGR” zone and possesses potential for agricultural rehabilitation. She has no strong view against the application from agricultural point of view on the understanding that agricultural activities are involved in the proposed development with land filling on condition that the Site will be reinstated upon the expiry of the planning permission.

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) that no construction and demolition waste would be used for land filling; (iv) 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 (v) 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) She has no objection to the application from landscape planning perspective.
- (b) Based on the aerial photos taken in 2021, the Site is located in an area of rural landscape character comprising of vacant lands, farmlands, village houses, temporary structures and scattered tree group. According to her site inspection photos taken in January 2022, the Site is vacant and covered by wild grass. No significant landscape resource is observed within the Site. Significant adverse impact on the existing landscape resources arising from the proposed development is not anticipated.
- (c) Considering that similar applications for hobby farm within the same “AGR” zone were approved, the proposed development under this application is considered not entirely incompatible with its surrounding environment.

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, in particular to demonstrate how the overland flow across the Site will not be adversely affected by the proposed development, 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 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 FSIs 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 the 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 IV**.
- (c) Detailed checking under the BO will be carried out at the 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.

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) Director of Electrical and Mechanical Services;
- (c) Chief Engineer / Construction, Water Supplies Department; and
- (d) Commissioner of Police.

10. Public Comments Received During the Statutory Publication Period

On 28.12.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from an individual and a local villager were received (**Appendices III-1 and III-2**). Both of them object to the application

mainly on the grounds that the proposed development will result in adverse traffic impact including traffic congestion; and large portion of the Site will be filled with concrete.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary hobby farm for a period of 5 years in the “AGR” zone, with filling of land at part of the Site (about 528m² or 32%) by 0.1m in depth for site formation and vehicle manoeuvring, leaving the remaining area (about 68%) for farming activities. 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. The proposed use is generally not in conflict with the planning intention of the “AGR” zone and 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 “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 predominated by residential structures/dwellings, fallow/cultivated agricultural land, hobby farms, open storage/storage yards, parking of vehicles, and vacant land / structures and vegetated land. Although there are residential structures/dwellings in the vicinity of the Site (the nearest is to the immediate north) (**Plan A-2**), the applicant states that no public announcement system will be used at the Site. DEP has no adverse comment on the application.
- 11.3 Taking into account the nature and small scale of the proposed development, it is envisaged that the proposed use would unlikely result in adverse traffic, environmental and drainage impacts to the surrounding areas. Relevant departments consulted including C for T, DEP, 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’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 The Site does not involve in any previous application. There are 3 similar applications (involving two sites) for temporary hobby farm in the vicinity of the Site within the same “AGR” zone 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.
- 11.5 Two public comments objecting to the application were received. In this regard, the departmental comments and planning assessments and considerations as stated 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 18.2.2027. 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 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 18.8.2022;
- (c) in relation to (b) 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 18.11.2022;
- (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 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 18.8.2022;
- (f) in relation to (e) 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 18.11.2022;
- (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 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. There is no strong planning justification 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 20.12.2022
Appendix Ia	FI received on 14.2.2022 <i>and 15.2.2022</i>
Appendix II	Similar Applications in the vicinity of the Site within the same "AGR" zone on the Kam Tin North OZP
Appendices III-1 and III-2	Public Comments received during the Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Site 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