

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/853

- Applicant** : Mr. TANG Wai Ip
- Site** : Lots 1204 and 1208 (Part) in D.D. 107, Kam Tin North, Yuen Long
- Site Area** : About 1,223.3m²
- Lease** : Block Government Lease (demised for agricultural use and covered by Short Term Waiver No. 5334 to permit structures erected thereon for the purpose of “Temporary Place of Recreation, Sports or Culture (Hobby Farm)”)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9 at the time of submission
- Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force
[The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
- Zoning** : “Agriculture” (“AGR”)
- Application** : 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 paved and deposited with a few converted container structures and partly covered by weeds (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of 5 one-storey temporary structures with building height not more than 3.5m and a total floor area of about 158.6m² for reception, farm storage, farm lounge, electric meter room and open shed uses. The farming area is about 693.9m² (about 57% of the Site), while about 529.4m² (or about 43% of the Site) has been paved by concrete by not more than 0.3m in depth (from about +16mPD to +16.3mPD) for site

formation of structures, vehicle parking and circulation space. Three private car parking spaces and one loading/unloading space for light goods vehicle will be provided within the Site. The operation hours will be 9:00a.m. to 6:00p.m. daily including public holidays. The applicant estimates that about 12 to 16 visitors will be accommodated at the Site daily and there will be 2 to 3 staff members working at the Site between 9:00a.m. and 6:00p.m to support the hobby farm operation. Loudspeakers, audio amplifier and public announcement system will not be used at the Site. The Site is accessible from Castle Peak Road – Tam Mi via a local track. The site layout plan and the paved ratio plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is the subject of two previous applications (No. A/YL-KTN/624 and 660) (details at paragraph 5 below).
- 1.4 The major development parameters of the application and the previously approved application No. A/YL-KTN/660 are summarized as follows:

Parameters	Previous Application No. A/YL-KTN/660 (a)	Current Application No. A/YL-KTN/853 (b)	Difference (b) – (a)
Applied Use	Proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years	Proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years and filling of land	Addition of filling of land and change in the approval period sought from 3 years to 5 years
Site Area	1,243m ²	1,223.3m ²	-19.7 (-1.58%)
Total Floor Area	158.6m ²	158.6m ²	---
No. of Structures	5 (for farm storage, electric meter room, farm lounge, farm reception and open shed)	5 (for farm storage, electric meter room, farm lounge, farm reception and open shed)	---
Building Height	Ranging from 2.8m to 3.5m, one storey	Not more than 3.5m, one storey	--
No. of Loading/Unloading Space	--	1 (for light goods vehicle)	+1 (+100%)
No. of Parking Space	4 (for private car)	3 (for private car)	-1 (-25%)

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 4.8.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 24.11.2022 **(Appendix Ia)**
 - (c) FI received on 5.1.2023 **(Appendix Ib)**

- 1.6 At the request of the applicant, the Rural and New Town Planning Committee (the Committee), on 23.9.2022, agreed to defer making a decision on the application for two months to allow time for the applicant to prepare FI to address the departmental comments.

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 FIs at **Appendices I to Ib** 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 proposed use is not incompatible with the surrounding environment.
- (b) The implementation works for the previously approved application could not commence as the short term waiver could not be obtained timely from the Lands Department. In this regard, the applicant has included a fire service installations (FSIs) proposal and drainage facilities plan implemented on-site to support the current application. The applicant stated that he will comply with all the approval conditions should the application be approved by the Board.
- (c) The proposed use would not generate adverse environmental, landscape and drainage impacts to the surrounding areas.
- (d) The paved area, which uses concrete as top, is for site formation, vehicle manoeuvring and parking. The area for structure and paved area is kept to a minimum for operational need. The Site will be reinstated to a condition suitable for agricultural use 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 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 Applications

- 5.1 The Site is involved in two previous applications (No. A/YL-KTN/624 and 660). The former application, which is for proposed temporary shop and services (plant showroom), was rejected by the Board on review in February 2019 and is not

relevant to the current application. The latter application for the same use (without filling of land) as the current application was approved by the Committee in October 2019 for a period of 3 years mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding land uses; relevant departments had no objection to or no adverse comment; and/or their technical concerns could be addressed by approval conditions. Nevertheless, the planning permission was revoked in September 2021 owing to non-compliance with approval conditions related to the implementation of the drainage and FSIs proposals. In the current application, FSIs proposal and drainage facilities plan implemented on-site are submitted in support of the application.

- 5.2 Compared with the last approved application (No. A/YL-KTN/660) which was submitted by the same applicant, the current application is essentially the same in terms of the applied use except minor changes to the site area / boundary, layout and major development parameters and the approval period sought is increased from 3 years to 5 years as stated in paragraph 1.4 above.
- 5.3 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

There are 23 similar applications, including 15 sites, for temporary hobby farm (5 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 similar reasons as stated in paragraph 5.1 above. However, the planning permissions for sixteen 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 paved and deposited with a few converted container structures and partly covered by weeds; and
- (b) accessible from Castle Peak Road – Tam Mi via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north and east is grassland. Further north and east are some residential dwellings/structures, storage yards, car service workshops and woodland within the “Industrial (Group D)” zone;
- (b) to its south and southeast are a hobby farm with valid planning permission (No. A/YL-KTN/758), grassland, residential dwellings/structures, open storage/storage yards, vacant land and sites with works in progress (with

valid planning permissions for animal boarding establishments (No. A/YL-KTN/752, 775, 814 and 815)); and

- (c) to its west and southwest are plant nursery, fallow agricultural land, parking of vehicles, open storage/ storage yards and vacant land.

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, three public comments from the Conservancy Association, the Kadoorie Farm and Botanic Garden and an individual 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 would set an undesirable precedent for similar applications; the proposed development would induce adverse environmental impact and hygiene problem to the surrounding areas; and part of the Site has been paved and the extent of land filling is considered excessive.

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 (529.4m² / about 43%) by not more than 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 57% (or about 693.9m²) 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. Approval of the application on a temporary basis 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 grassland, hobby farm, residential structures/dwellings, plant nursery, fallow agricultural land, parking of vehicles and open storage/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 The Site is the subject of a previous application (No. A/YL-KTN/660) approved for the same use (without filling of land) in October 2019, which was revoked due to non-compliance with approval conditions related to the implementation of drainage and FSIs proposals. In the current application, FSIs proposal and drainage facilities plan implemented on-site are submitted in support of the application. D of FS and CE/MN of DSD have no adverse comment on the application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 There are 23 similar applications for temporary hobby farm, five of which with filling of land, within the same “AGR” zone in the vicinity of the Site. All applications were approved by the Committee between December 2017 and August 2022 (paragraph 6 and **Plan A-1** refer). Approval of this application is in line with the Committee’s previous decisions on similar applications.
- 11.6 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 13.1.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;
- (b) the submission of a record of the existing drainage facilities on the Site 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 13.4.2023;
- (c) the submission of a 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 13.7.2023;
- (d) in relation to (c) above, the implementation of the revised 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 13.10.2023;
- (e) if the above planning condition (a) 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;
- (f) if any of the above planning condition (b), (c) or (d) 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
- (g) 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 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 4.8.2022
Appendix Ia	FI received on 24.11.2022
Appendix Ib	FI received on 5.1.2023
Appendix II	Previous applications and 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
JANUARY 2023**