

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/891

<u>Applicant</u>	: Alpha Bless Limited represented by Goldrich Planners and Surveyors Ltd.
<u>Site</u>	: Lots 1047 RP, 1049 S.A and 1049 RP (Part) in D.D. 109, Yuen Long, New Territories
<u>Site Area</u>	: About 6,831m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) with Ancillary Facilities 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) with ancillary facilities for a period of 5 years and filling of land. The Site is zoned “AGR” on the Kam Tin North 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 generally formed, and partly vacant and partly covered by weeds (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed development involves the erection of 3 one-storey temporary structures with building height not more than 4.5m and a total floor area of about 684m² for reception, ancillary office, sitting area, works area and storage of farm tools and crops. The applicant also applies for filling of land with soil from 11.1 mPD to 12.1 mPD for about 4,070 m² (or 60%) of the Site for cultivation purpose, and with soil and concrete from 11.1 mPD to 12.2 mPD for about 2,721 m² (or 40%) of the Site for site formation of structures and car parking purposes. Ten private car parking spaces and three parking spaces for light goods vehicle will be provided within the Site. The proposed operation hours will be from 8:00a.m. to 7:00p.m. daily including public holidays. The applicant estimates that a maximum of 50 visitors will visit the Site during weekends and there will be 4 staff members working at the Site to support the hobby farm operation. No public announcement system will be used at the Site. The Site is accessible from Kong Tai

Road via a local track. The site layout plan and paving plan submitted by the applicant are 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 supplementary information (Appendix I)
received on 1.2.2023
- (b) Further Information (FI) received on 31.5.2023* (Appendix Ia)
- (c) FI received on 28.9.2023* (Appendix Ib)
- (d) FI received on 21.11.2023* (Appendix Ic)

** accepted and exempted from publication and recounting requirements*

1.4 On 31.3.2023 and 28.7.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months each as requested by the applicant.

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** to **Ic**. They can be summarised as follows:

- (a) The proposed development is on a temporary basis and will not jeopardize the long-term planning intention. The hobby farm is in harmony with the surrounding rural environment.
- (b) The proposed development provides a place for environmental education and ecotourism activities. It promotes agricultural activities and green lifestyle, and improves environmental quality of the local community.
- (c) The proposed use would not generate adverse environmental, traffic and drainage impacts on the surrounding areas. Septic tank and soakaway system will be designed and constructed with reference to the Practice Note for Professional Person (ProPECC) PN 5/93 on “Drainage Plans subject to Comment by the Environmental Protection Department”.
- (d) The part of the Site to be paved by concrete is for site formation of structures and vehicle parking. The Site will be reinstated to a condition suitable for agricultural use upon expiry of the planning approval.
- (e) In case of discovery of archaeological deposits during construction phase at the Site, Antiquities and Monuments Office (AMO) will be informed. Detailed study will be carried out and mitigation measures must be designed and submitted to AMO for 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 any active planning enforcement action.

5 Previous Applications

There is no previous application covering the Site.

6 Similar Applications

- 6.1 There are 18 similar applications, involving 13 sites, for temporary hobby farm (9 of which with filling of land) in the vicinity of the Site within or straddling the same “AGR” zone in the past 5 years. All the applications were approved with conditions by the Committee between September 2018 and February 2023 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments consulted in general had no objection and their technical concerns could be addressed by approval conditions. The planning permissions for eight of them were revoked due to non-compliance with approval conditions.
- 6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) generally formed, and partly vacant and partly covered by weeds; and
- (b) accessible from Kong Tai Road via a local track.

7.2 The surrounding areas are rural in character mainly intermixed with grassland, parking of vehicles, vacant land, residential dwellings/structures, farmland, and open storage yards. The Site falls within the Tai Kong Po Site of Archaeological Interest (SAI) (**Plan A-2**).

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 Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other 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.
- 9.2 The following government department has concern on the application:

Heritage Conservation

- 9.2.1 Comments of the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office (CHE(AM), AMO):

The Site is partially situated within the Tai Kong Po SAI (**Plan A-2**). The applicant continues that the proposed development of the temporary hobby farm does not involve any ground excavation works for septic tank and soakaway, wastewater treatment system and site formation (i.e. levelling off, filling and paving works) while the construction of the structures will not affect the original layer of the site. However, it is understood that the applicant will be required to submit and implement a drainage proposal to the satisfaction of the Drainage Services Department (DSD) if planning approval is granted by the Town Planning Board. As such, the AMO has concern on the adverse impact on the Tai Kong Po SAI arising from the proposed drainage works. If the drainage facilities are required for the proposed development, the applicant is required to submit the drainage proposal to AMO for comment and agreement on the mitigation measures at the early planning stage before implementation.

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

The application was published for public inspection. During the 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; vegetation clearance has been made; the proposed

development would induce adverse environmental impact; the demand for hobby farm drops; and the extent of land filling is excessive.

11 Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) with ancillary facilities for a period of 5 years and filling of land at the Site zoned “AGR”. 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 4,070m² (or 60%) 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. Taking into account the planning assessment below, the proposed use on a temporary basis for a period of 5 years could be tolerated.
- 11.2 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, Chief Engineer/Mainland North of DSD and Director of Environmental Protection (DEP) have no adverse comment from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with farmland, residential structures/dwellings, open storage yards, parking of vehicles, and grassland. The Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L of PlanD) considers that significant adverse landscape impact arising from the proposed development is not anticipated and has no objection to the application.
- 11.4 Other relevant departments consulted, including Commissioner for Transport, and Director of Fire Services, have no objection or no adverse comment on the application. 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 revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimise any potential environmental nuisance.
- 11.5 There are 18 approved similar applications for temporary hobby farm, within or straddling the same “AGR” zone in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comments objecting to the application as stated in paragraph 10 above, the departmental comments and planning 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 application.
- 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 24.11.2028. 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 and the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 24.5.2024;
- (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 and the Chief Heritage Executive (Antiquities and Monuments), Antiquities and Monuments Office or of the Town Planning Board by 24.8.2024;
- (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 24.5.2024;
- (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 24.8.2024;
- (f) if 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; and
- (h) 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 supplementary information received on 1.2.2023
Appendix Ia	FI received on 31.5.2023
Appendix Ib	FI received on 28.9.2023
Appendix Ic	FI received on 21.11.2023
Appendix II	Similar applications within the same “AGR” zone in the vicinity of the Site in the past 5 years
Appendix III	Government departments’ general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2023**