

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1011

<u>Applicant</u>	:	New Success International Investment Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1013, 1014 RP (Part), 1015 S.A, 1015 S.B, 1015 RP (Part), 1018 (Part) and 1035 (Part) in D.D.113, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 5,381m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm and Fishing Ground), Barbecue Site and Education Centre with Ancillary Eating Place for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture (hobby farm and fishing ground), barbecue site and education centre with ancillary eating place for a period of 3 years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for “AGR” zone, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ and ‘Education Centre’, which are Column 2 uses, and filling of land require planning permission from the Town Planning Board (the Board). Privately owned and commercially operated ‘Barbecue Site’ is neither a Column 1 nor Column 2 use of the “AGR” zone. According to the covering Notes of the OZP, temporary use of land not exceeding a period of three years also requires planning permission from the Board. The Site is currently vacant and partially hard-paved with an artificial pond and some open storage of construction materials (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kam Ho Road via a local track (**Plans A-2 to A-3**). According to the applicant, the proposed use involves 10 one to two-storey structures (not more than 6m) with a total floor area of about 1,060m² for agricultural education centre, activities room with rain shelters, refreshment kiosk,

storage, barbecue area with rain shelter, site office, ancillary eating place, washroom and changing room uses. There will also be a farming area (about 2,438m² or 45.3% of the Site) and an at-grade artificial pond for recreational fishing (about 409m² or 7.6% of the Site) at the Site. The applicant also applies for regulation of filling of land for about 28.7% of the Site (about 1,545m²) with concrete in a depth of not more than 0.2m (from +19.2mPD to +19.4mPD) for site formation of structures, parking and circulation space. Fencing will be erected along the boundary of the Site to avoid disturbance to the watercourse nearby. 11 private car parking spaces, one L/UL space for light goods vehicles and one L/UL space for light bus will be provided within the Site. The proposed operation hours will be from 9:00 a.m. to 10:00 p.m. from Mondays to Sundays, including public holidays. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in five previous applications. The last application No. A/YL-KTS/928 submitted by the same applicant for the same use at the same site with the same layout and development parameters was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.9.2022, and the planning permission was subsequently revoked on 23.3.2024 due to non-compliance of time-limited approval conditions (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 17.7.2024
 - (b) Further Information (FI) received on 4.11.2024* (Appendix Ia)
 - (c) FI received on 13.1.2025* (Appendix Ib)
 - (d) FI received on 3.2.2025* (Appendix Ic)

**accepted and exempted from publication and recounting requirements*
- 1.5 On 6.9.2024 and 20.12.2024, the Committee agreed to the applicant's requests to defer making a decision on the application for two months each.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ic**. They can be summarised as follows:

- (a) The proposed use is temporary in nature and will not jeopardise the long-term planning intention of the "AGR" zone. It is not incompatible with the surrounding environment.
- (b) The filling of land of 0.2m in depth is intended to facilitate a flat surface for site formation of structures, parking and L/UL spaces and circulation area. The extent of land filling has been kept to the minimum for meeting the operational need of the proposed development.

- (c) The proposed use will not create significant nuisance to the surrounding areas. Adequate mitigation measures will be provided and the applicant has submitted fire service installations (FSIs) and drainage proposals in support of the current application. The applicant will also strictly follow the relevant statutory environmental requirements and practice notes so as to minimise possible adverse impacts and environmental nuisance to the nearby residents.
- (d) No excavation work is involved for the proposed use thus no adverse impact on the Ho Pui Site of Archaeological Interest is anticipated.
- (e) The applicant will submit Short Term Waiver (STW) application to rectify the lease breaches upon planning approval was given by the Town Planning Board (the Board).

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on satisfying the “Owner’s Consent/Notification” Requirement under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting notice at the Site and sending notice 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 Application

- 5.1 The Site is involved in five previous applications (No. A/YL-KTS/385, 424, 425, 522 and 928). Four of the applications (No. A/YL-KTS/385, 424, 425 and 522) for temporary open storage of construction materials and/or machinery and/or used vehicle and vehicle parts are irrelevant to the current application due to different uses involved. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 The last Application No. A/YL-KTS/928 submitted by the same applicant for the same use with at the same site with same layout and development parameters was approved with conditions by the Committee on 23.9.2022, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was considered not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions. The planning permission was subsequently revoked on 23.3.2024 due to non-compliance with the time-limited approval conditions on the submission and implementation of the drainage proposal and the implementation of the FSIs proposal.

6. **Similar Application**

There is no similar application within the same “AGR” zone on the OZP in the past five years.

7. **The Site and Its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is:

- (a) accessible from Kam Ho Road via a local track; and
- (b) currently vacant and partially formed and paved with an artificial pond and some open storage of construction materials.

7.2 The surrounding areas are predominated by storage and open storage yards, village houses of Ho Pui, woodland and vacant land. There is a nullah to the east of the Site across Kam Ho Road (**Plans A-2 and A-3**).

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 for “AGR” zone, 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, if any, are provided in **Appendices III and IV** respectively.

9.2 The following government department has reservation on the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) has reservation on the application;

- (b) the Site comprises Old Schedule Agricultural Lot No. 1013, 1014 RP, 1015 S.A, 1015 S.B, 1015 RP, 1018 and 1035 all in D.D. 113 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;

Unauthorised structure(s) within the said private lot(s) covered by the planning application

- (c) LandsD has reservation on the planning application since there are unauthorised structures and uses on some of the said private lot(s) which are already subject to lease enforcement actions according to case priority. The lots owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD;
- (d) if the planning application is approved, the lots owner(s) shall apply to his office for a Short Term Waiver (STW) to permit the structure(s) erected within the said private lots. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and
- (e) advisory comments are in **Appendix IV**.

10. Public Comment Received During Statutory Publication Period

On 26.7.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from a Ho Pui Tsuen Indigenous Inhabitant Representative and an individual, with the former one supporting the application and the latter expressing views that approval conditions should be complied with to ensure visitors' safety (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm and fishing ground), barbecue site and education centre with ancillary eating place for a period of three years and associated filling of land at the Site zoned "AGR" (**Plan A-1**). Whilst the proposed use is not entirely in line with the planning intention of the "AGR" zone, the Director of Agriculture, Fisheries and Conservation has no comment on the application from agricultural and nature conservation perspectives. In view of the above and taking into account the planning assessments below, there is no objection to the proposed use on temporary basis of three years with associated filling of land.

- 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, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended in paragraph 12.2 below should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding areas which comprise predominantly storage and open storage yards, village houses, woodland and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that noting there is no major change in the proposed layout comparing with the previously approved application, further significant adverse landscape impact within the Site arising from the proposed use is not anticipated and she has no comment on the application from landscape planning perspective.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. The applicant also committed to rectify lease breaches (**Appendix Ia**). Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services (D of FS), have no objection to 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. It is also recommended to advise the applicant to follow the relevant guidelines and requirement issued by Environmental Protection Department and comply with the statutory requirements set out in relevant pollution control ordinances to minimise any potential environmental nuisance caused by the proposed use on the surrounding areas.
- 11.5 The Site is the subject of a previously approved application No. A/YL-KTS/928 submitted by the same applicant for the same use at the same site with the same layout and development parameters as mentioned in paragraph 5 above. The planning approval was subsequently revoked on 23.3.2024 due to non-compliance with the time-limited approval conditions related to the submission and implementation of the drainage proposal and the implementation of the FSIs proposal. In this regard, the applicant has submitted drainage proposal and FSIs proposal in support of the current application which have been accepted by CE/MN of DSD and D of FS. As such, sympathetic consideration may be given to the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further applications.
- 11.6 Given the previous approval for the same use at the same site in 2022 as detailed in paragraph 5 above, approving the current application is in line with the Committee’s previous decision.

- 11.7 For the public comments as summarised in paragraph 10 above, the departmental comments and planning 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, PlanD 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 three years until 28.2.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the implementation of the accepted 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 28.11.2025;
- (b) in relation to (a) above, the implemented drainage facilities at the site shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted 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 28.11.2025;
- (d) if the above planning condition (b) 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;
- (e) if any of the above planning condition (a) or (c) 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
- (f) upon expiry of the planning permission, the reinstatement of the site, including the removal of hard paving and fill materials and grassing of the application site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached in **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 use with associated filling of land 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. It is also intended 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 statement received on 17.7.2024
Appendix Ia	FI received on 4.11.2024
Appendix Ib	FI received on 13.1.2025
Appendix Ic	FI received on 3.2.2025
Appendix II	Previous applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
FEBRUARY 2025**