

RNTPC Paper No. A/YL-KTS/887  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 11.6.2021\_\_\_\_\_.

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/887**

<b><u>Applicant</u></b>	: Mr. SUEN Chi Hung represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 1720 S.A, 1720 S.B, 1720 S.C, 1720 RP, 1721 (Part), 1723 and 1724 in D.D. 106, Shek Kong, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 3,610 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: 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 within the “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 currently vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The proposed development involves four single-storey structures with building height of about 3.5m and a total floor area of about 515m<sup>2</sup> for agricultural education room, refreshment kiosk, reception, washroom, changing room, meter room and storage of farm tools. The farming area will be about 2,097m<sup>2</sup> (about 58% of the Site). About 515m<sup>2</sup> (about 14% of the Site) will be paved with concrete and filled by not more than 0.2m (from 20.6mPD to 20.8mPD) for site formation of

structures. The remaining area will be soiled ground (998m<sup>2</sup>/28% of the Site) including circulation and manoeuvring space of vehicles and an artificial pond for irrigation and fish farming. One loading/ unloading space for light goods vehicle will be provided. The operation hours will be 9:00a.m. to 6:00p.m. daily including public holidays. The estimated maximum number of visitors will be about 20 on weekday and weekend. No public announcement system would be used. The Site is accessible from Kam Sheung Road via Tung Bin Road. Layout plans and paved ratio 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 plans received on 12.4.2021 (**Appendix I**)
- (b) Further Information (FI) received on 7.6.2021 providing responses to departmental comments (**Appendix Ia**)  
*[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 and FI in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) As demand for recreational farming is growing recently, the applicant seeks to operate a hobby farm business to promote sustainable and organic farming in Kam Tin area. Pesticides will not be used at Site to promote organic farming. Types of crops to be grown will be fruit and vegetable which are free to be carried away by visitors.
- (b) The proposed development is on a temporary basis and will not frustrate the long-term planning intention of the “AGR” zone. No significant adverse traffic, environmental, landscape and drainage impacts on the surrounding area is anticipated. There will be no medium or heavy goods vehicles exceeding 5.5 tonnes entering the Site. Visitor is required to make appointment in advance and take public transport and walk to the Site. The applicant will follow the Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) for sewage treatment at the Site. He will also follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by Environmental Protection Department (EPD) to minimize all possible environmental impacts on the nearby sensitive receivers. The applicant will submit drainage and fire service installation proposals and implement the accepted proposals to mitigate any potential flood risk and fire hazard after obtaining the planning approval.
- (c) As heavy loading of structures would compact the existing soiled ground and weaken the ground surface, concrete site formation is required to provide stronger ground reinforcement to stabilize the existing soil ground and prevent erosion from

surface run-off. Works will be carried out to ensure the Site is suitable for the proposed hobby farm use. The paved/filled area and the number of structures are considered necessary and have been kept to minimum for the site operation. The Site will be reinstated to an area suitable for agricultural use upon expiry of the planning permission.

**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” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice 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 case.

**5. Previous Application**

There is no previous application covering the Site.

**6. Similar Applications**

- 6.1 There are two similar applications (No. A/YL-KTS/647 and 733) for temporary hobby farm (without land filling) to the south of the Site within the same “AGR” zone which were approved with conditions by the Committee for 3 years in 2014 and 2017 respectively mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding areas; and concerned departments had no adverse comment on the application. Both applications were not implemented.
- 6.2 There is one similar application for land filling within the same “AGR” zone. Application No. A/YL-KTS/833 for proposed temporary shop and services (landscaping and gardening showroom) and land filling was approved with conditions by the Committee for 3 years in 2019 mainly for similar reasons as stated in paragraph 6.1 above.
- 6.3 Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) vacant and covered with weeds; and
- (b) accessible from Kam Sheung Road via Tung Bin Road.

7.2 The surrounding area is rural in character and intermixed with residential dwellings /structures, active/fallow agricultural land, plant nursery, parking of vehicles, storage yards and vacant/unused land:

- (a) to its immediate north and west are residential dwellings / structures and unused land. To its further north and west are residential dwellings / structures, fallow agricultural land and vacant / unused land;
- (b) to its south are residential dwellings / structures, fallow agricultural land, plant nursery, storage yard and unused land; and
- (c) to its east across Tung Bin Road are residential dwellings / structures, cultivated agricultural land, parking of vehicles, a vacant site with planning approval for temporary animal boarding establishment and vacant/unused 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 for the “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 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 Old Schedule Agricultural Lots 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) Should planning approval be given to the 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 the landlord or lessor at its sole discretion and there is no guarantee that such application(s) 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 approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the 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) Tung Bin Road is not maintained by HyD.

- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) He has no objection to the application subject to the following approval condition:

“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.”
- (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) 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 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 (iii) it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

### **Agriculture and Nature Conservation**

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

- (a) The Site falls within the “AGR” zone and possesses potential for agricultural rehabilitation. He has no strong views against the application for the proposed use and land filling from agricultural point of view on the understanding that the agricultural activities

are involved in the proposed use and the Site will be reinstated upon the expiry of the planning application.

- (b) Noting the Site is disturbed in nature, he has no strong view on the application from nature conservation perspective.

### **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 photo of 2020, the Site is situated in an area of rural landscape character comprising of scattered tree groups, village houses, active and abandoned farmlands. The proposed development is not incompatible to the landscape character of the area. According to site photos taken on 20.4.2021 and the site inspection on 10.6.2020, the Site is a vacant grassland and few existing trees of common species are found within the Site. Referring to applicant's submission, no tree felling is proposed within the Site and the proposed land filling area is not in conflict with existing trees. Significant adverse impact on landscape resources arising from the proposed development within the Site is not anticipated.
- (c) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation/removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

### **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 and the 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.

### **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 FSI 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) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comment on UBW, provision of access, temporary or licenced structures are at **Appendix IV**.
- (d) Detailed checking under BO will be carried out at 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 he has no particular comment on the application.

9.2 The following Government departments have no comment on/ no objection to the application:

- (a) Director of Electrical and Mechanical Services;
- (b) Chief Engineer/ Construction, Water Supplies Department;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

**10. Public Comments Received During Statutory Publication Period**

On 20.4.2021, the application was published for public inspection. During the three-week statutory publication period, 81 public comments were received from the residents at Tung Bin Road (with 80 comments submitted in standard form attaching the same statement) and an individual (**Appendices IV-1 and IV-81**). All of them object to the application mainly on the following grounds:

- (a) the proposed land filling will aggravate the flooding problem at Tung Bin Road;
- (b) Tung Bin Road is a narrow road, the proposed use will affect the accessibility of the residents in the area;
- (c) the vehicles accessing the Site will cause pollution and noise. The proposed use will also increase fire hazard in the area;
- (d) it is doubtful that the applicant could maintain the quality of the agricultural land, taking into account that the Site was used as storage of vehicles and the proposed filling of land will involve large amount of concrete. Also, there is no justification for such a large site area for hobby farm use and it is suspected that the Site will be for other uses;
- (e) different applicants assisted by the same agent have applied various animal boarding establishment applications along Tung Bin Road in the past two years and now applies for hobby farm at the Site. The residents of Tung Bin Road are concerned about flooding, environmental, traffic and hygiene problems, and noise and safety issues cause by the applications. The false information provided by the applicant and the past approved applications should not be taken into account in this application; and

- (f) agricultural land should be used to grow crops. The proposed pond at the Site is suspicious.

## **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 and filling of land at part of the Site (515m<sup>2</sup> / 14%) by not more than 0.2m. 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 58% of the Site will be used for farming. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. While filling of land at part of the Site would reduce the area for cultivation, the applicant stated that it is for site formation of structures. DAFC has no strong view against the application from agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “AGR” zone. The applicant also undertakes to reinstate the Site for agricultural purpose after the approval period.
- 11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character and intermixed with residential dwellings/structures, active/fallow agricultural land and vacant/unused land. According to the applicant, the structures and paving/filling of land at the Site have kept to minimum for operational needs. CE/MN of DSD and DEP have no in-principle objection to the proposal.
- 11.3 According to the applicant, no public announcement system will be allowed. In view of the nature of the proposed hobby farm, it would unlikely cause significant adverse environmental, traffic or drainage impacts to the surroundings. Relevant departments consulted including C for T, CTP/UD&L of PlanD, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and prohibiting the use of public announcement system at the Site are recommended in paragraphs 12.2 (a) and (b) below. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (h) below.
- 11.4 The Site is not subject to any previous application. There are two similar applications for temporary hobby farm (without land filling) to the south of the Site in the same “AGR” zone approved by the Committee in 2014 and 2017 and one similar application for land filling for temporary shop and services use within

the same “AGR” zone approved by the Committee in 2019. The approval of the application is in line with the Committee’s previous decisions.

- 11.5 Eighty-one public comments were received during the statutory publication period objecting to the application as mentioned in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments 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, 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 11.6.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 6:00pm and 9:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of 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 11.12.2021;
- (e) in relation to (d) above, the implementation of 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 11.3.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of 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 11.12.2021;

- (h) in relation to (g) above, the implementation of 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 11.3.2022;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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;
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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
- (k) 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 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. This zone is also intended 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**

<b>Appendix I</b>	Application form with plans received on 12.4.2021
<b>Appendix Ia</b>	FI received on 7.6.2021
<b>Appendix II</b>	Similar applications within the same “AGR” on the Kam Tin South OZP
<b>Appendices III-1 to III-81</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Paved Ratio Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2021**