

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/928

<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 Outlined Zoning Plan 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 Land Filling

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 and fishing ground), barbecue site and education centre with ancillary eating place for a period of 3 years and land filling. According to the Notes of the OZP, "fishing ground" and "hobby farm", which are regarded as a 'Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)', and "education centre" are Column 2 uses under the "AGR" zone that require planning permission from the Town Planning Board (the Board). Privately operated "Barbecue Site" is neither a Column 1 nor Column 2 use in the "AGR" zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires permission from the Board, notwithstanding that the use or development is not provided for in terms of the OZP. Filling of land within the "AGR" zone also requires planning permission from the Board. The Site is formed and paved, partly vacant and partly deposited with some construction materials and converted containers (**Plans A-2 to A-4**).

- 1.2 The Site is the subject of four previous applications (No. A/YL-KTS/385, 424, 425 and 522) (details at paragraph 5 below).
- 1.3 According to the applicant, the proposed development involves the erection of 10 one to two-storey structures with building height ranging from about 3m to 6m and a total floor area of about 1,060m² for agricultural education centre (220m²), activities rooms with rain shelter (180m²), barbecue area with rain shelter (220m²), site office and storage of tools (110m²), refreshment kiosk and storage of tools (110m²), and ancillary eating place, washroom and changing room (220m²). 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.
- 1.4 The applicant states that the application is also to regularize the filling of land of about 1,545m² (or 28.7% of the Site) by concrete by not more than 0.2m in depth (from about +19.2mPD to +19.4mPD) for site formation of structures, parking and loading / unloading (L/UL) of vehicles and circulation purposes. 11 private car parking spaces, and 1 L/UL space each for light goods vehicles and light bus will be provided within the Site. The operation hours will be from 9:00 a.m. to 10:00 p.m. daily including public holidays. The applicant estimates that not more than 50 visitors will be accommodated at the Site per day while the number of staff working at the Site is 8. No public announcement system or any form of audio amplification system will be used at the Site. The Site is accessible from Kam Ho Road via a local track. The site layout and paved ratio plans submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information (**Appendix I**) (SI) received on 9.6.2022 and 20.6.2022
 - (b) Further information (FI) received on 21.7.2022 (**Appendix Ia**)
 - (c) FI received on 1.8.2022 (**Appendix Ib**)
- 1.6 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 29.7.2022. At the request of the applicant, the Committee agreed to defer making a decision on the application for two months to allow time for the preparation of FI to address the departmental comments. After the deferral, the applicant submitted FI in August 2022 and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, SI and FIs in **Appendices I, Ia and Ib**. They can be summarized as follows:

- (a) Due to the travel restriction affected by the outbreak of COVID-19, the demand for local organic farming and barbecue activities have increased and the proposed use can help meet the huge demand for such activities and promote organic farming in Hong Kong.
- (b) The application is on a temporary basis and will not jeopardize the long term planning intention of the “AGR” zone. Significant adverse traffic, environmental, landscape and drainage impacts are not anticipated. Adequate mitigation measure will be provided to minimize nuisance to the existing environment after obtaining the Board’s 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 soiled ground and prevent erosion from surface run-off. The extent of land filling has been kept to minimal for operation of the proposed development. The Site will be reinstated to an amenity area after the planning permission is expired.
- (d) The Site is situated within the Ho Pui Site of Archaeological Interest (**Plan A-2**). In this regard, the applicant states that no excavation works are required for erection of the structures within the Site and the proposed pond for recreational fishing is provided at-grade, hence no adverse impact is anticipated on the Site of Archaeological Interest.
- (e) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) to minimize adverse environmental impacts and nuisance to the surrounding area, and the Professional Persons Environmental Consultative Committee Practice Notes for sewage treatment at the Site.

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

The applicant is not a “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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not the subject of any planning enforcement action.

5. Previous Applications

The Site is the subject of four previous applications (No. A/YL-KTS/385, 424, 425 and 522) for temporary workshop / temporary steel fabrication yard and/or open storage which are not relevant to the current application. All applications were rejected by the Board on review between January 2007 and May 2011. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

There is no similar application involving hobby farm, fishing ground, barbecue site and education centre uses in the "AGR" zones in the vicinity of the Site in the past 5 years.

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

7.1 The Site is:

- (a) formed and paved, partly vacant and partly deposited with some construction materials and a few converted containers;
- (b) some construction works are in progress on part of the Site; and
- (c) accessible from Kam Ho Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are an open storage yard, grassland and vacant land. To its further north are residential structures / dwellings within an area zoned "Village Type Development" ("V") (**Plan A-1**);
- (b) to its west are vacant land and an area zoned "V" with residential structures / dwellings (the closest is around 10m away); and
- (c) to its south and east are vacant land, an open storage yard and grassland. To the further east and southeast, across Kam Ho Road and a nullah, are cultivated agricultural land and woodland.

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

All 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 statutory publication period, two public comments were received from the Conservancy Association and the Kadoorie Farm and Botanic Garden objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention; it would induce adverse environmental impacts to the surrounding areas; no technical assessments on the sewage and water pollution aspects are provided; and approval of the application would cause undesirable precedent of “destroy first, build later”.

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 3 years in the “AGR” zone and land filling by not more than 0.2m in depth at part of the Site (about 28.7%). 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. Whilst the application is not entirely in line with the planning intention of the “AGR” zone, DAFC has no strong view against the application from the agricultural point of view. Besides, the hobby farm, fishing ground, barbecue site and education centre uses under application are mainly leisure and recreational uses which can meet the recreational needs of people in Hong Kong subject to proper regulation and site management. Given its temporary nature, it is considered that approval of the application on a temporary basis for a period of 3 years would not jeopardize 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 Site is located in a rural landscape character comprising farmland, vacant land, village houses and temporary structures with some woodland within the “Conservation Area” zone in the south (**Plan A-1**). The CTP/UD&L of PlanD has no objection to the application from landscape planning perspective and considers that the proposed development is not incompatible with the surrounding landscape character of the area, and significant adverse impact on the landscape resources arising from the proposed use is not anticipated.

- 11.3 Taking into account the nature of the proposed use, significant adverse traffic, environmental and drainage impacts arising from the proposed development to the surrounding areas is not anticipated. Other 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 impact on the adjacent watercourse (**Plan A-2**) that may be caused by the proposed use, the applicant will be advised to adopt appropriate measures to avoid polluting or disturbing the watercourse located to the east during the land filling activity and operation as per the suggestion of DAFC. Appropriate approval conditions are also recommended in paragraph 12.2 below to address the technical requirements of concerned departments. 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, and relevant Practice Note for Professional Person PN 5/93 on "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test if septic tank and soakaway system will be used at the Site.
- 11.4 2 public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.
- 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 3 years until 23.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road 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 23.3.2023;
- (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 23.6.2023;
- (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 23.3.2023;
- (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 23.6.2023;
- (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;
- (h) if any of the above planning condition (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; and
- (i) 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 to retain and safeguard good 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

Appendix I	Application form with SI received on 9.6.2022 and 20.6.2022
Appendix Ia	FI received on 21.7.2022
Appendix Ib	FI received on 1.8.2022
Appendix II	Previous applications
Appendix III	Government department's 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 previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**