

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/341

<u>Applicant</u>	: Mr LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1150 RP in D.D. 106, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 291m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: 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 falls within an area zoned “AGR” on the approved Shek Kong OZP (**Plan A-1**). 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 which requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is currently vacant and partly covered by weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves a one-storey temporary structure with building height of not more than 3m and a total floor area of about 36m² for reception, site office and storage of farm tools. Part of the Site (about 119m² or about 41% of the Site) is proposed to be filled up (by not more than 0.2m to raise the site level from about 15.8mPD to 16.0mPD) and hard-paved by concrete for the erection of the structure and circulation space respectively. The remaining part of the Site (about 172m² or about 59% of the Site) will be used as farmland area. The operation hours would be from 9:00 a.m. to 6:00 p.m. daily including public holidays. No car parking space and loading/unloading space is provided within the Site. The applicant estimates that

about 10 visitors per day will be accommodated at the Site and there will be four staff members working at the Site to support the hobby farm operation. The Site is accessible from Kam Sheung Road via a local footpath. The layout plans 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 received on 28.2.2023 and letter dated **(Appendix I)** 6.3.2023 providing supplementary information
- (b) Further Information (FI) received on 17.4.2023 **(Appendix Ia)**
(exempted from publication and recount requirements)

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 FI at **Appendices I** and **Ia** and are briefly summarised as follows:

- (a) The proposed development is on a temporary basis and hobby farming activities are similar to the permitted agricultural activities. The proposed use would not frustrate the long-term planning intention of the “AGR” zone and would also utilise the Site to promote sustainable community farming.
- (b) The proposed development would not create adverse traffic, environmental, landscape and drainage impact to the surrounding areas. Mitigation measures would be provided to minimise the nuisance to the existing environment. No audio amplification system would be allowed, and no parking space would be provided at the Site.
- (c) The proposed land filling is required to provide stronger ground reinforcement to stabilise the existing soiled ground and prevent erosion from surface run-off. The Site would be reinstated to an amenity area after the 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 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

There is no previous application covering the Site.

6. Similar Applications

There are two similar applications (A/YL-SK/261 and 283), involving two sites, for temporary hobby farm with filling of land within the same “AGR” zone in the vicinity of the Site in the past five years. These applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) in October 2019 and August 2020 respectively mainly on the considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant Government departments consulted had no objection to or no adverse comment on the applications; and/or their technical concerns could be addressed by approval conditions. 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-4)

7.1 The Site is:

- (a) vacant and partly covered by weeds; and
- (b) accessible from Kam Sheung Road via a local footpath.

7.2 The surrounding areas have the following characteristics:

- (a) intermixed with active/fallow farmland and domestic dwellings/structures to its east, south, west and north; and
- (b) to its further southeast is a dog kennel approved under planning application No. A/YL-SK/329 within the “Village Type Development” zone.

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 Bureau/Department

The government bureau/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)

During the statutory publication period, four public comments were received from the World Wide Fund for Nature Hong Kong and individuals including three raising objection to the application and one providing views. The commenters express that the proposed development would pose traffic and drainage impacts to the surrounding areas; the scale of landing filling at the Site is excessive; and approval of the application would set an undesirable precedent.

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 and filling of land at part of the site (about 41%) by not more than 0.2m in depth for the proposed structure and circulation space in the “AGR” zone (**Plan A-1**). 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 59% (or about 172m²) 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 perspective. 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. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.
- 11.2 The Site is intermixed mainly with active/fallow farmland and domestic dwellings/structures. The proposed use is therefore considered not incompatible with the surrounding areas.
- 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. It is anticipated that there is no adverse impact on traffic, environmental, landscape, drainage and fire safety aspects. 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. 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 Environmental Protection Department, and the 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 There are two similar applications for temporary hobby farm uses within the same “AGR” zone approved by the Committee between October 2019 and August 2020 (paragraph 6 and **Plan A-1** refer). The Committee’s considerations on these two similar applications are generally applicable to the current application. Approval of this application is in line with the Committee’s previous decisions.
- 11.5 Regarding the public comments received during the statutory publication period 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 21.4.2028. 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 or of the Town Planning Board by 21.10.2023;
- (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 or of the Town Planning Board by 21.1.2024;
- (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 21.10.2023;
- (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 21.1.2024;

- (f) if any of 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 received on 28.2.2023 and letter dated 6.3.2023 providing supplementary information
Appendix Ia	Further information received on 17.4.2023
Appendix II	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
Drawings A-1 and A-2	Site layout plans
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
APRIL 2023**