

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/356

<u>Applicant</u>	: Ching Yeung (Fu Tso) Limited represented by Allgain Land Planning Limited
<u>Site</u>	: Lot 428 (Part) in D.D. 112, Yuen Long
<u>Site Area</u>	: About 780m 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 3 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 3 years and filling of land. The Site is zoned “AGR” on the Shek Kong 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 flat and fenced off, partly vacant and partly covered by weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves the erection of 4 one-storey temporary structures with building height not more than 5m and a total floor area of about 176m² for reception, ancillary office, changing room and portable toilet, CCTV and store room, and agricultural education room (**Drawing A-1**). 480m² (62%) of the Site would be farmland area. The applicant also applies for filling of land with concrete from +23.5 mPD to +23.7 mPD for about 300m² (or 38%) of the Site for site formation of structures and circulation path (**Drawing A-2**). The proposed operation hours will be from 9:00a.m. to 6:00p.m. daily including public holidays. The applicant estimates that a maximum of 20 visitors will visit the Site daily and there will be a maximum of 2 staff members working at the Site to support the hobby farm operation. No parking and loading/unloading space will be

provided within the Site and no public announcement system will be used at the Site. The Site is accessible from Nam Hing West Road via a local footpath. 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 2.11.2023
- (b) Further Information (FI) received on 15.12.2023* **(Appendix Ia)**

** accepted and exempted from publication and recounting 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** to **Ia**. 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 proposed 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. The proposed use will be implemented in accordance with the relevant technical guidelines promulgated by the Environmental Protection Department.
- (d) The part of the Site to be paved by concrete is for site formation of structures and circulation path. The Site will be reinstated to its current condition upon 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 obtaining the consent of the current land owner. 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

- 6.1 There are 5 similar applications, involving 4 sites, for temporary hobby farm (with filling of land) in the vicinity of the Site within the same “AGR” zone in the past 5 years. Three of the applications (No. 294, 299 and 306) were approved with conditions by the Committee in 2021 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 other two applications (No. 314 and 322) covering the same site were rejected by the Committee mainly on the grounds that the application site was in close proximity to Shek Kong Barracks and approval of the application might result in security concerns.
- 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-4)

- 7.1 The Site is:
- (a) generally flat and fenced off, partly vacant and partly covered by weeds; and
 - (b) accessible from Nam Hing West Road via a local footpath.
- 7.2 The surrounding areas are rural in character mainly intermixed with grassland, vacant land, residential dwellings/structures, farmland and plant nurseries (**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, 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

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 Comment Received During the Statutory Publication Period

The application was published for public inspection on 2.11.2023. During the statutory public inspection period, one public comment was received from an individual (**Appendix V**) objecting to the application mainly on the ground that 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) for a period of 3 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 480m² (or 62%) 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 3 years could be tolerated.
- 11.2 Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding 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 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 grassland, vacant land, residential dwellings/ structures, farmland and plant nurseries. 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 use 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 3 approved similar applications for temporary hobby farm, within the same "AGR" zone in the vicinity of the Site as mentioned in paragraph 6. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment 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 comment mentioned in paragraph 10 above, 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 22.12.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing is allowed to be used on the site 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 **22.6.2024**;
- (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 **22.9.2024**;
- (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 **22.6.2024**;
- (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 **22.9.2024**;
- (g) if any of the above planning condition (a) and (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 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 use 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 2.11.2023
Appendix Ia	FI received on 15.12.2023
Appendix II	Similar s.16 applications within the same "AGR" zone on Shek Kong OZP in the past 5 years
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses

Appendix V-1	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	Paving Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**