

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/359

<u>Applicant</u>	: Mr. LI Kwok Sing represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Lots 1430 (Part), 1431 (Part), 1439 (Part) and 1440 (Part) in D.D. 114, Shek Kong, Yuen Long
<u>Site Area</u>	: About 1,500m 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 for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years and filling of land at the application site (the Site). The Site falls within an area zoned “AGR” on the approved Shek Kong OZP No. S/YL-SK/9 (**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 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 currently fenced-off, paved with sand and vacant (**Plans A-3 to A-4**).
- 1.2 According to the applicant, the site area is about 1,500m² and three one to two-storey structures (not more than 7m in height) with a total gross floor area of about 130m² for office, reception, changing room, storage, washroom and meter room are proposed at the Site (**Drawing A-1**). About 1,287m² (86%) of the Site would be farmland area. The applicant also proposes to regularise hard paving of part of the Site (about 213m² or 14 %) with concrete of not more than 0.2m in depth to levels ranging from +44mPD to +44.2mPD 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. The Site is accessible via a local access road branching off from Kam Sheung Road (**Plans A-2 and A-3**). One private car parking space will be provided on-site. The layout plan and the land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is involved in a relevant previous application (No. A/YL-SK/327) for the same applied use with the same layout approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 20.5.2022 for a period of 3 years. The permission was subsequently revoked on 20.11.2023 due to non-compliance with the 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 attachments received on 8.1.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 22.3.2024* (**Appendix Ia**)
 - (c) FI received on 22.4.2024* (**Appendix Ib**)
- * accepted and exempted from publication and recounting requirements*
- 1.5 At the request of the applicant, the Committee on 1.3.2024 agreed to defer making a decision on the application.

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 Ib** and summarised below:

- (a) the proposed use is on a temporary basis for a period of 3 years and therefore would not jeopardise the long-term planning intention of the “AGR” zone. The proposed use is also considered not incompatible with the surrounding land uses;
- (b) the proposed use provides a place for environmental education. It promotes sustainable agricultural activities and is intended to serve as a platform for farmers to promote their farm products and farming activities;
- (c) the Site was the subject of a previous application (No. A/YL-SK/327) for the same applied use which was revoked due to non-compliance with the approval conditions. The applicant promises that if the application is approved by the Committee, he will comply with the relevant approval conditions;
- (d) there are similar applications approved by the Committee within the same “AGR” zone in the vicinity of the Site; and
- (e) the proposed use would not create significant adverse environmental, traffic and drainage impacts on the surrounding areas, and no tree felling would be involved.

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 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. 31B) by posting site notice and sending notification letter to relevant owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

4.1 The Site is not formed before the date of first publication of the Gazette of notice of the draft Shek Kong OZP No. S/YL-SK/7 under which filling of land in the “AGR” zone started requiring planning permission from the Board.

4.2 The Site is not subject to any active enforcement action.

5. Previous Applications

5.1 The Site is subject to a previous application (No. A/YL-SK/327) for the same applied use with the same layout approved with conditions by the Committee of the Board on 20.5.2022 for a period of 3 years on the considerations that the proposed use would not jeopardise the long-term planning intention of “AGR” zone; it was not incompatible with the surrounding environment; government departments consulted generally had no adverse comment on the application; and relevant departmental concerns could be addressed by approval conditions. The planning permission was subsequently revoked on 20.11.2023 due to non-compliance with the approval conditions on the submission of drainage proposal and the implementation of drainage proposal and fire service installations (FSIs) proposal. Details of this application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

5.2 The Site is also subject to another application (No. A/YL-SK/286) for temporary open storage which is not relevant to the current application.

6. Similar Applications

There are three similar applications No. A/YL-SK/290 (for a period of 5 years with filling of land), No. A/YL-SK/297 (for a period of 3 years without filling of land) and No. A/YL-SK/361 (for a period of 3 years with filling of land) for proposed temporary place of recreation, sports or culture (hobby farm) use in the vicinity of the Site within the same “AGR” zone on the OZP (**Plan A-1**). All of them were approved with conditions by the Committee on 20.11.2020, 12.3.2021 and 15.3.2024 respectively on similar considerations as stated in paragraph 5.1. The planning approval for application No. A/YL-SK/297 was subsequently revoked on 12.2.2023 due to non-compliance with the approval conditions on the submission of drainage proposal and the implementation of drainage proposal and FSIs proposal. Details of these similar applications are summarized at **Appendix II** and their 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) currently fenced-off, paved with sand and vacant; and
- (b) accessible via a local access road branching off from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character with domestic dwellings/structures, storage/open storage yards, active/fallow agricultural land and vacant/ unused land. To its further north is an area used for temporary rural workshop (food processing workshop) with valid planning permission under No. A/YL-SK/334. While to its southeast is an area used for temporary place of recreation, sports or culture (hobby farm) with valid planning permission under No. A/YL-SK/361.

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 Notes and Explanatory Statement of the OZP, filling of land in “AGR” zone also requires permissions from the Board as the activities may cause adverse drainage and environmental impacts on the adjacent areas.

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 Comments Received During the Statutory Publication Period

The application was published for public inspection on 16.1.2024. During the statutory public inspection period, 2 public comments were received from a villager living at one of the lots of the Site, and an individual (**Appendices V-1 to V-2**). The villager raises concerns about the application mainly on the grounds that the proposed use would worsen the traffic condition and road safety for the local roads and the vicinity, and intensify the problem of illegal parking. The other public comment raises concerns that the previous approval was revoked due to non-compliance with the approval conditions.

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” (**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 1,060m² (70%) 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. Director of Agriculture, Fisheries and Conservation 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 Drainage Services Department and Director of Environmental Protection (DEP) have no objection to the application 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 with domestic dwellings/structures, storage/open storage yards, active/fallow agricultural land and vacant/ unused land. The Chief Town Planner/Urban Design and Landscape of the Planning Department 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 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. 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 The Site is the subject of a previously approved application (A/YL-SK/327) submitted by the same applicant for the same applied use with the same layout as the current application. That planning permission was revoked due to non-compliance with the approval conditions on the submission of drainage proposal and the implementation of drainage proposal and FSIs proposal. In this regard, the applicant has submitted drainage and FSIs proposals to support the current application and relevant departments have no objection to the application subject to relevant approval conditions. 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 resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 There are three approved similar applications (No. A/YL-SK/290, 297 and 361) for temporary hobby farm use, within the same “AGR” zone in the vicinity of the Site as mentioned in paragraph 6. The Committee’s considerations on the similar applications are generally applicable to the current application and approval of this application is in line with the Committee’s previous decisions.

- 11.7 Regarding the public comments 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 comments 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 10.5.2027. 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 revised 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 10.11.2024;
- (c) in relation to (b) above, the implementation of *the revised* 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 10.2.2025;
- (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 revised 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 10.11.2024;
- (f) in relation to (e) above, the implementation of *the revised* 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 10.2.2025;
- (g) if *any of* the above planning condition (a) *and 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) *and 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 attachments received on 8.1.2024
Appendix Ia	FI received on 22.3.2024
Appendix Ib	FI received on 22.4.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-2	Public Comments
Drawing A-1	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
MAY 2024**