

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/553

- Applicant** : Mr. CHOI Fai Man represented by Goldrich Planners and Surveyors Limited
- Site** : Lot 1448 in D.D. 116, Yuen Long, New Territories
- Site Area** : 404 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) with Ancillary Facilities for a Period of 5 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) with ancillary facilities for a period of 5 years and filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “AGR” zone, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). Furthermore, filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently a piece of fallow agricultural land (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from Yau Shin Street to its north via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the proposed hobby farm will offer agricultural experiences to their members, including families and institutions. A maximum of 5 visitors per day is expected. The produce, such as tomato and cabbage, can be taken away by visitors. The remaining produce will be sold at the market in Yuen Long. Majority of the Site will be used as farming area (65%) with the remaining area hard-paved for a structure and drainage purpose (35%). No public announcement systems will be used at the Site. Furthermore, no vehicle will be allowed to enter the Site. Plans showing the access leading to the Site and the site layout submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The major development parameters of the current application are summarised as follows:

Site Area	About 404 m ²
Total Floor Area (non-domestic)	About 220 m ²
Extent of Filling of Land	About 143 m ² (35% of the Site)
Thickness of Filling of Land	About 0.1m of concrete
No. and Height of Structures	1 • for function room and ancillary uses (6.5m, 2 storeys)
No. of Parking Spaces	Nil
No. of Loading/ Unloading (L/UL) Space	Nil
Operation Hours	8:00 a.m. to 7:00 p.m. daily

- 1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with appendices and plans received on 23.5.2022 **(Appendix I)**
- (b) Further Information (FI) received on 21.6.2022 **(Appendix Ia)**
- (c) FI received on 8.7.2022 **(Appendix Ib)**
[(b) and (c) 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 and FI (**Appendices I and Ia**). They can be summarised as follows:

- (a) The proposal will promote environmental awareness and green lifestyle by way of eco-tourism and agricultural activities. The local community will benefit from the environmental improvement.
- (b) The proposal will be in harmony with the surrounding rural character. The G/F of the proposed structure will provide space for handling produce and storage of farm tools, while visitors will be educated on agricultural knowledge in the Function Room on the 1/F.
- (c) The staff are nearby residents and the visitors can access the Site by taking public transport and on foot. Furthermore, the produce will be sent to the market by public transport. As such, no parking and L/UL space is proposed.
- (d) There will be no significant adverse impacts arising from the proposal. The Site will be re-instated upon expiry of the planning permission.

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 the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Application

There is no previous application concerning the Site.

6. Similar Applications

- 6.1 There are no similar applications for place of recreation, sports or culture use, while there are two similar applications for filling of land within the subject "AGR" zone. Details of the applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/372 for filling of land for permitted agricultural use was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2016, mainly on the grounds that the Director of Agriculture, Fisheries and Conservation (DAFC) did not favour the application from agricultural point of view as the extent of paving was not in commensurate with the scale of the concerned farm nor did the applicant justify the essential need of the hard paving for the farming operation; the filling of land with concrete covering the entire site of 480m² had already taken place prior to obtaining planning permission (also subject to planning enforcement action at the time); and approval of the application would set an undesirable precedent.
- 6.3 Application No. A/YL-TT/380 for proposed filling of land for proposed temporary open storage of construction and decoration material and containers for storage of decoration equipment was also rejected by the Committee in 2016, mainly on the grounds that the proposed open storage use was not in line with the planning intention of the "AGR" zone and incompatible with the surrounding area, hence the associated filling of land should not be allowed; the filling of land with concrete covering the entire site of 153m² had already taken place prior to obtaining planning permission (also subject to planning enforcement action at the time); and approval of the application would set an undesirable precedent, amongst other grounds.

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

7.1 The Site is:

- (a) accessible from Yau Shin Street via a local track to its north (**Plans A-2 and A-3**); and
- (b) currently a piece of unfenced fallow agricultural land (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) predominantly rural in nature with mainly agricultural land intermixed with scattered residential structures, open storage/storage yards, a monastery and vacant/vegetated land;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate north; and
- (c) except for one open storage yard, the other open storage/storage yards and monastery in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

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 in the subject “AGR” zone.

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

On 31.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from an individual and the Kadoorie Farm and Botanic Garden Corporation (KFBGC). The individual objects to the application mainly on the grounds that the extent of proposed land filling is not proportionate; the 2-storey structure is incompatible with the surrounding area; and the Site should be put to its intended agricultural use (**Appendix V-1**), while KFBGC urges the Board to question the essential need for the proposed land filling (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) with ancillary facilities for a period of 5 years and filling of land at the Site zoned “AGR” on the OZP. 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.

According to the proposal, the majority of the Site will be used as farming area (65%, or about 261m²) and 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. Approval of the application on a temporary basis of five years will not frustrate the long-term planning intention of the “AGR” zone. While filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no adverse comment on the proposed filling of land from drainage and environmental perspectives. The extent of the proposed filling of land is small in scale and the applicant has also justified the need for the proposed land filling, which is to accommodate the proposed 2-storey structure and associated drainage.

- 11.2 The surrounding area comprises predominantly agricultural land intermixed with open storage/storage yards (**Plan A-2**). The proposed use, which is akin to a farming operation commonly found in rural areas, is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment on the application from concerned government departments, including Chief Town Planner/Urban Design and Landscape of Planning Department, Commissioner for Transport, DEP, Director of Fire Services and CE/MN, DSD. Significant adverse landscape, traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, 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” to minimise any potential environmental impact on the surrounding areas.
- 11.4 There is no previous application concerning the Site. Although there are two similar applications for filling of land within the subject “AGR” zone rejected by the Committee in 2016, both similar applications involved filling of land prior to obtaining planning permission from the Board. One of the application was to facilitate a proposed temporary open storage use (Application No. A/YL-TT/380), which is not relevant to the current application. As for the other similar application for filling of land in association with a permitted agricultural use (Application No. A/YL-TT/372), the extent of land filling was relatively large (i.e. 480m²); DAFC considered the hard paving to be incommensurate with the scale of the concerned farm nor did the applicant justify the essential need of the hard paving for the farming operation. For the current application, the proposed place of recreation, sports or culture (hobby farm) is considered akin to agricultural use; the applicant has provided justifications on the purpose of the proposed land filling, which is generally small in scale; and DAFC, CE/MN, DSD and DEP have no adverse comment on the proposed filling of land from agricultural, drainage and environmental perspectives.
- 11.5 There were two public comments objecting to/providing views on the application received during the statutory publication period as summarised in paragraph 10

above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 application.
- 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 15.7.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no usage of public announcement system, portable loudspeaker or any form of audio amplification system is allowed on the Site 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 15.1.2023;
- (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 15.4.2023;
- (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 15.1.2023;
- (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 15.4.2023;
- (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; and
- (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.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) 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; and
- (b) the applicant fails to demonstrate in the submission that the proposed land filling is essential for the proposed use.

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 annexes and plans received on 23.5.2022
Appendix Ia	FI received on 21.6.2022
Appendix Ib	FI received on 8.7.2022
Appendix II	Similar Applications within the Subject "AGR" Zone on the OZP
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments Received During the Statutory Publication Period
Drawing A-1	Access Plan
Drawing A-2	Site Layout Plan with Proposed Paving
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
JULY 2022**