

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/564

- Applicant** : Fung Shing Properties Development Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 2117 and 2219 (Part) in D.D. 118 and Adjoining Government Land (GL), Yuen Long, New Territories
- Site Area** : 1,220 m² (about) (including GL of about 424 m² or 34.8%)
- 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) 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) (**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 vacant and partly devegetated (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from Tai Shu Ha Road East to its west via a local road (**Drawing A-1 and Plan A-3**). According to the applicant, 60% of the Site will be designated as cultivation area for hobby farming. The proposed filling of land (of about 318m², at a depth of about 0.2m) is mainly for site formation for ancillary structure and for parking/vehicle manoeuvring area. A maximum of 12 visitors per day is expected and visits to the Site will be by appointment basis. The applicant pledges that no public announcement systems will be used at the Site. Plans showing the vehicular access leading to the Site, site layout, drainage proposal and extent of land filling with landscape proposal submitted by the applicant are at **Drawings A-1 and A-4** respectively.
- 1.3 The major development parameters of the application are summarised as follows:

Site Area	About 1,220 m ²
Total Floor Area (non-domestic)	Not more than 100 m ²
Extent of Filling of Land	About 318 m ² (26% of the Site)
Thickness of Filling of Land	About 0.2m of concrete
No. and Height of Structure	1 • for site office, toilet, rain shelter and storage (4m, 1 storey)
No. of Parking Spaces	4 for private cars (5m x 2.5m each)
No. of Loading/ Unloading Space	Nil
Operation Hours	9:00 a.m. to 6:00 p.m. daily

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

- (a) Application Form with annexes and plans received on 12.7.2022 **(Appendix I)**
- (b) Further Information (FI) received on 19.8.2022 **(Appendix Ia)**
- (c) FI received on 23.8.2022 **(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 Ib**). They can be summarised as follows:

- (a) The proposal could help revitalise the Site and optimise the use of land resources that would otherwise be left idle. The proposal is compatible with the surrounding environment.
- (b) The proposed filling of land will be confined to the area of the ancillary structure and parking/vehicle manoeuvring area. The proposed concrete paving would reduce dust generated from manoeuvring of vehicles.
- (c) There will be minimal traffic, environmental and drainage impacts arising from the proposal. All waste water generated will be treated by a septic tank system, which will comply with the prevailing standards and requirements.

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. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

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 is one rejected similar application for place of recreation, sports or culture use and one rejected similar application 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/202 for temporary place of recreation, sports or culture (barbecue area, hobby farm and mini-motorcycle playing ground) was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2007 mainly on the grounds that the proposal involving mini-motorcycle playing and barbecue activities would generate adverse environmental (noise) impact on the surrounding area; and there were potential adverse traffic and drainage impacts arising from the proposal, amongst other grounds.
- 6.3 Application No. A/YL-TT/441 for filling of land for permitted agricultural use and ancillary footpath and drain was rejected by the Committee in 2018 mainly on the grounds that the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application from agricultural point of view as there was insufficient information on the farming proposal and the Site was being used as storage of construction materials at the time; and there were potential adverse drainage impacts arising from the proposal.

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

- 7.1 The Site is:
 - (a) accessible via a local road leading from Tai Shu Ha Road East to its west (**Plan A-3** and **Drawing A-1**); and
 - (b) vacant and partly devegetated (**Plans A-2** and **A-4**).
- 7.2 The surrounding areas have the following characteristics (**Plans A-2** and **A-3**):
 - (a) mixed in character with predominately open storage/storage yards, warehouses and parking of vehicles intermixed with agricultural land, residential structures, graves, an orchard and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located about 30m to its south, while the main cluster of residences of Sung Shan New Village is located to its further east; and
 - (c) the open storage/storage yards, warehouses and parking of vehicles in the vicinity are suspected unauthorised developments 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 19.7.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from Designing Hong Kong Limited and an individual. Designing Hong Kong Limited objects to the application on the grounds that the proposal is not in line with the planning intention; the proposal would generate adverse traffic impact; and approval of the application would endorse ‘Destroy First, Development Later’ practice and set an undesirable precedent within the “AGR” zone (**Appendix V-1**). The individual urges the Board to consider the adjoining application No. A/YL-TT/562 (**Plan A-2**) in tandem, and raises questions on the relationship between the two applicants and the extent of land filling and GL involved (**Appendix V-2**).

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” 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 cultivation area for hobby farming (60%, or about 732m²) 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 three 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 objection to the proposed filling of land from drainage and environmental perspectives. The extent of the proposed filling of land is not excessive and the

applicant has also justified the need for the proposed land filling, which is to accommodate the proposed structure and parking/vehicle manoeuvring area.

- 11.2 The surrounding area comprises predominantly open storage/storage yards, warehouses, parking of vehicles, agricultural land and residential structures (**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 (C for T), 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. 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” and to observe the relevant ordinances and guidelines.
- 11.4 There is no previous application concerning the Site. There are two similar applications for temporary place of recreation, sports or culture (barbecue area, hobby farm and mini-motorcycle playground) use (No. A/YL-TT/202) and filling of land for permitted agricultural use (No. A/YL-TT/441) within the subject “AGR” zone, which were rejected by the Committee in 2007 and 2018 respectively mainly on the grounds that the applied uses would generate adverse environmental impact on the surrounding area and/or there were potential adverse traffic and drainage impacts arising from the use. For the current application, the proposed hobby farm is considered akin to agricultural use and concerned departments have no objection/no adverse comment on the application from traffic, 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 3 years until 9.9.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no usage of public announcement system, whistle blowing, 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 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 9.3.2023;
- (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 9.6.2023;
- (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 9.3.2023;
- (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 9.6.2023;
- (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 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 12.7.2022
Appendix Ia	FI received on 19.8.2022
Appendix Ib	FI received on 23.8.2022
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Landscape Plan with Extent of Proposed Land Filling
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
SEPTEMBER 2022**