

RNTPC Paper No. A/YL-KTN/726
For Consideration by
the Rural and New Town
Planning Committee
on 6.11.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/726

Applicant : Mr. Tang Tsz Ki

Site : Lots 609 and 610 in D.D. 109, Kam Tin North, Yuen Long

Site Area : About 1,713 m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9

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 to amend a 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. 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 within the “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 vacant and covered by grass.
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/691) submitted by the same applicant for the same use and filling of land which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 17.1.2020. The planning permission is valid until 17.1.2023. The change in the current application concerns a larger floor area of the proposed structures.
- 1.3 The proposed development involves three single-storey structures with building height of 2.8m and a total floor area of about 109.8m² for reception, farm tool

storage and farm lounge. The farming area of the Site will be about 1,203m² (about 70.2% of the Site) and the remaining area of about 510m² (about 29.8% of the Site) will be paved and filled by concrete and brick by 0.5m (from 5.5mPD to 6mPD). Apart from increasing the floor area from 54.9m² in the approved scheme to 109.8m² (+100%), the height and use of the structure as well as the farming and paving ratio remain unchanged. No parking and loading/unloading space will be provided within the Site. The operation hours will be 9:00a.m. to 6:00p.m. daily including public holidays. According to the applicant, no more than 15 visitors will be accommodated at the Site, and no public announcement system would be used at the Site. The Site is accessible from Chi Ho Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plans received on 17.9.2020
 - (b) Further Information (FI) received on 30.10.2020 **(Appendix Ia)** providing responses to departmental comments
[exempted from publication requirement]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement and FI in **Appendices I to Ia**. They can be summarized as follows:

- (a) The proposed use is temporary in nature and will not jeopardize the long-term planning intention of the “AGR” zone. The proposed development will not involve permanent structure and the Site would be easily reinstated.
- (b) The proposed use will take the natural characteristic and surrounding uses into account. Landscape and drainage facilities will be provided at the Site to fulfil the approval conditions if the application is approved to enhance the environment and minimize flooding.
- (c) A few similar applications for temporary place of recreation, sports or culture (hobby farm) located in the surrounding areas were approved by the Board.
- (d) Visitors and staffs will access the Site by public transport and no adverse traffic impact is anticipated. The proposed land filling and paved area is the same as the previous approved application No. A/YL-KTN/691 which is to provide a place for agricultural learning and visitor to rest, and for the base of the structures. No chemical cleaner will be used to avoid polluting nearby pond and soil. The paving will be removed after the expiry of the planning permission. The increase in floor area of the proposed structures is to provide additional space for changing area for

visitors as well as for storage of farm tool, seedlings and plants to increase the variety of crops to be planted at the Site. The area for structure and land filling/paving is kept to the minimum for operational needs.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “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 notification letter to the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to active planning enforcement action.

5. **Previous Application**

There is a previous application (No. A/YL-KTN/691) for temporary hobby farm for 3 years and filling of land at the Site. The application was approved with conditions by the Committee on 17.1.2020 mainly on the consideration that temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding land uses; it would unlikely cause significant adverse environmental, traffic or drainage impacts; and concerned departments had no objection to the application. The applicant has not yet fulfilled any approval condition and the planning permission is valid until 17.1.2023. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are a total of 28 similar applications for temporary hobby farm concerning 20 sites within the same “AGR” zone. Except application No. A/YL-KTN/394, all the similar applications were approved with conditions by the Committee between 2015 and 2020 for a period of 3 or 5 years. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

27 Approved Applications

- 6.2 27 applications for temporary hobby farm (five with caravan holiday camp) were approved between 2015 and 2020 mainly for the reasons that temporary approval would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; they would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts; and

concerned departments had no objection to the application. However, the planning permissions for nine of them were revoked due to non-compliance with approval conditions. One of the approved applications (Application No. A/YL-KTN/693) involved filling of land.

1 Rejected Application

- 6.3 Application No. A/YL-KTN/394 for proposed temporary field study/education centre and hobby farm (without land filling) for a period of 5 years was rejected by the Board on review in 2013 mainly on the grounds that the site was the subject of unauthorized land filling and the fill material was not suitable for cultivation; there was no detailed information regarding the design and operation of the proposed development; the applicant failed to demonstrate that the development would not generate adverse landscape and drainage impacts on the surrounding areas; and approving the application would set an undesirable precedent and the cumulative effect of which would result in general degradation of the rural environment of the area.

7. The Site and Its Surrounding Areas (Plans A-3 to A-4)

7.1 The Site is:

- (a) currently vacant and covered by grass; and
- (b) accessible from Chi Ho Road via a local track.

7.2 The surrounding areas are rural in character predominated by cultivated agricultural land, residential structures/dwellings, and vacant/unused land (**Plan A-2**):

- (a) to its north and east are active agricultural land, plant nursery and vacant land. To its further northwest is a site occupied by a temporary place of recreation (including barbecue spot, picnic area, children playground and handicraft making area) with ancillary facilities with valid planning permission;
- (b) to its south and west are residential structures/dwellings, cultivated agricultural land, a pond and vacant/unused land; and
- (c) part of the Site falls within the Yuen Shan Site of Archaeological Interest (**Plan A-1**).

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

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

Considering that there is neither parking provision nor vehicular access to the lot and the induced traffic impact is minimal, he has no comment on the application.

- 9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Chi Ho Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and road drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective subject to the following approval condition:

no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any times during the planning approval period.

- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance. Adequate supporting infrastructure/facilities should be provided for proper collection, treatment and disposal of waste/wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department".
- (c) There is no environmental complaint concerning the Site received in the past 3 years.

Agriculture

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no strong view against the application for the proposed use and land filling from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission.

Landscape

- 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has no objection to the application from the landscape planning point of view.
 - (b) Based on the aerial photo taken in October 2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, village houses, active and abandoned farmlands. The proposed development is not incompatible with the surrounding environment.
 - (c) Referring to the site visit in September 2020, the Site is vacant and no existing tree is found within the Site. Significant adverse impact to landscape resources within the Site is not anticipated.

Drainage

- 9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no objection in principle to the proposed development from the public drainage point of view.
 - (b) Should the application be approved, the conditions requiring the submission, implementation and maintenance of a drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.
 - (c) The drainage proposal should include demonstration on how the existing flow paths as well as the run-off falling onto and passing through the Site could be intercepted and disposed of via proper discharge point(s).

Building Matters

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An

Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) Detailed checking under BO will be carried out at building plan submission stage.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Food and Environmental Hygiene

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) Proper licence/permit issued by Food and Environmental Hygiene Department (FEHD) is required if there is any food business/ catering service/ activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (b) If the proposal involves any commercial/ trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/ trading activities, the application should handle on their own/ at their expenses.

Heritage Conservation

9.1.11 Comments from Antiquities and Monuments Office, Development Bureau (AMO, DEVB):

- (a) According to the applicant's submission, drainage and landscaping works would be proposed and implemented. In view of the location and scope of the proposed temporary place of recreation, sports or culture (hobby farm) and the findings of previous archaeological work in the surrounding area, he has no objection to the application from cultural heritage viewpoint.
- (b) The applicant is required to furnish AMO with the details of the drainage and landscaping works including the works programme for his arrangement of site inspection if necessary.

District Officer's Comments

9.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any local's comment on the application and he has no comment on the application.

9.2 The following Government departments have no comment on/ no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comment Received During Statutory Publication Period

On 25.9.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix IV**) objecting to the application mainly on the grounds that local produce is essential in times of crisis; agricultural land should be upgraded and protected; and the proposed development encourages inappropriate land uses and brownfield operations.

11. Planning Considerations and Assessments

- 11.1 The application seeks to amend a valid planning permission for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years in the “AGR” zone and filling of land at part of the Site (510m²/ 29.8%) by 0.5m. Compared with the last approval, the applicant proposes to increase the floor area of the structures (+54.9m²/ +100%) for more spacious changing area for visitors and storage area. The current application is the same as the previous application in site area, number of structures and land filling/ paving area. 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 70% of the Site will be used for farming. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view against the application from agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed temporary hobby farm is considered not incompatible with the surrounding areas which are rural in character predominated by active agricultural land, residential dwellings/ structures and unused/vacant land. According to the applicant, the Site of the structures and paving/ filling of land have kept to minimum for operational needs. CE/MN of DSD has no in-principle objection to the proposal.
- 11.3 According to the applicant, public announcement system will not be used at the Site and no parking and loading/unloading space will be provided at the Site. In view of the nature of the proposed hobby farm, it would unlikely cause significant adverse traffic, landscape, environmental or drainage impacts to the surroundings. Relevant departments consulted including C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any possible environmental nuisance, approval conditions restricting the operation hour and prohibiting the use of public announcement system are recommended in paragraph 12.2(a) and (b) below. The applicant will also be advised to adopt the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical

requirements of CE/MN of DSD and D of FS could be addressed by appropriate approval conditions in paragraph 12.2(c) to (h) below.

- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/691) for the same proposed use which was approved by the Committee in 2020 as detailed in paragraph 5 above. Besides, there are 27 similar applications for temporary hobby farm approved by the Committee between 2015 and 2020 (one of them involved filling of land) in the same “AGR” zone as detailed in paragraph 6 above. The circumstances of the only rejected similar hobby farm application, as detailed in paragraph 6.3 above, are different. Approval of this application is in line with the Committee’s previous decisions on the previous and similar applications.
- 11.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and the planning considerations and assessments stated 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 has no objection to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 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 3 years until 6.11.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00pm and 9:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the submission of 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 6.5.2021;
- (d) in relation to (c) above, the implementation of 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 6.8.2021;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of 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 6.5.2021;
- (g) in relation to (f) above, the implementation of 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 6.8.2021;
- (h) if any of the above planning conditions (a), (b) or (e) 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;
- (i) if any of the above planning conditions (c), (d), (f) or (g) 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
- (j) 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 V**.

- 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. This zone is also intended 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 plans received on 17.9.2020
Appendix Ia	FI received on 30.10.2020
Appendix II	Previous s.16 application covering the Site
Appendix III	Similar applications within the same “AGR” zone on the OZP
Appendix IV	Public comment
Appendix V	Advisory clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**