

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/490

- Applicant** : FHL Adventure Education Centre, Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 2031 RP in D.D. 92, Kam Tsin Village, Sheung Shui, New Territories
- Site Area** : 971.1 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
- Zoning** : “Green Belt” (“GB”) (about 88% of the Site)
“Recreation” (“REC”) (about 12% of the Site)
- Application** : Temporary Place of Recreation, Sports or Culture (Hobby Farm and Adventure Centre) with Ancillary Private Car Parking for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary place of recreation, sports or culture (hobby farm and adventure centre) with ancillary private car parking for a period of 3 years. The Site falls within an area partly zoned “GB” (about 88%) and partly zoned “REC” (about 12%) on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16 (**Plan A-1**). ‘Place of Recreation, Sports or Culture’ use is always permitted within “REC” zone while it is a Column 2 use within “GB” zone which requires permission from the Town Planning Board (the Board). The Site is fenced off and used as hobby farm and adventure centre without planning permission (**Plan A-4**).
- 1.2 The Site is the subject of a previous application (No. A/NE-KTS/451) for temporary hobby farm with ancillary private car parking which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years in 2017 (**Plan A-1**). All approval conditions of the previous application had been complied with and the planning permission lapsed on 9.9.2020. The applied use under the current application is changed to hobby farm and adventure centre.

- 1.3 According to the applicant, the temporary use involves one existing shed (7.6m high) covering six 2-storey container-converted structures for adventure centre, office, rest room, toilet and storage uses and one existing single-storey (3m high) structures for storage of farm tools and necessities. The total covered floor area is 230m² and total gross floor area (GFA) is 197.48m². The hobby farm area (for cultivation) will occupy about 500m² (i.e. about 51% of the total site area) of land. While the area where the structures sit and the footpaths have been paved, the remaining area (about 626m², 64% of the site area) including the hobby farm area and car parking area will remain unpaved. A total of 18 existing trees will be preserved. A septic tank has been provided within the Site. The existing surface channel at the periphery of the Site provided under the previous application will be maintained by the applicant. The layout plan and landscape and tree preservation plan are at **Drawings A-1 and A-2**.
- 1.4 The Site is accessible from Kam Tsing South Road via a local track. An ingress/egress is proposed at the north-western tip of the Site (**Drawing A-1 and Plan A-2**). A total of 2 private car parking spaces are provided on the Site. The operation hours are from 9:00 a.m. to 7:30 p.m. daily. It will serve at most 10 persons at the same time. No public announcement system will be installed at the Site.
- 1.5 Compared with the previous application (No. A/NE-KTS/451), the current application is submitted by a different applicant for a similar use (with adventure centre in addition to the previous hobby farm) with the same site boundary. The proposed layout is similar but the structures are larger and taller (GFA from 119m² to 197.48m² and building height from 6.47m to 7.6m).
- 1.6 In support of the application, the applicant has submitted the following documents:
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| (a) Application Form with supplementary statement and a letter of 15.9.2020 with updated Executive Summary and figures received on 17.9.2020 | (Appendix I) |
| (b) Further Information of 29.10.2020 [#] | (Appendix Ia) |
| (c) Further Information of 3.12.2020 [#] | (Appendix Ib) |
- [#] exempted from publication
- 1.7 On 6.11.2020, the Committee agreed to defer a decision on the application as requested by the applicant to allow time for preparation of further information to address departmental comments. On 3.12.2020, the applicant submitted further information, and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement at **Appendix I** and further information at **Appendix Ib**. They are summarised as follows:

- (a) The temporary use is in line with the planning intention of “GB” and “REC” zone and the

Town Planning Board Guideline No. 10. It should be regarded as a compatible use within the “GB” zone.

- (b) The temporary development is compatible with the surrounding environment. Approval of the application would allow for better land management for the Site.
- (c) Similar applications for hobby farm in “GB” zone in rural areas were approved by the Board.
- (d) There will be trained site staff near the ingress/egress to direct and oversee the traffic and ensure the safety of all road users including vehicles and pedestrian and no queueing of vehicles outside the Site. The 10m wide ingress/egress allows sufficient manoeuvring space and smooth vehicular operation. The applicant will post notice at a prominent location of the Site to warn drivers and pedestrian for safety.
- (e) It is anticipated that adverse impacts on traffic, environment and drainage are insignificant.
- (f) The applicant is a charity association. The hobby farm is to cultivate the interest of the participants in organic farming and the adventure centre is to provide a place to the kids for low structure adventure activity, i.e. activity design, equipment and facilities on the ground.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site falls within the “GB” zone. The Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) passive recreational uses which are compatible with the character of surrounding areas

may be given sympathetic consideration;

- (d) the design and layout of any proposed development should be compatible with the surrounding areas. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

5. **Background**

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

6. **Previous Application**

The Site is the subject of one previous application No. A/NE-KTS/451 submitted by a different applicant for proposed temporary place of recreation, sports or culture (hobby farm) with ancillary private car parking for a period of 3 years. The application was approved with conditions by the Committee in 2017 mainly on the considerations that the development was considered not entirely in conflict with the planning intention of the “GB” zone; it did not contravene the TPB PG-No. 10; it was considered not incompatible with the surrounding areas; and it would not cause adverse impacts on traffic, environment, sewerage, drainage and water supply. All approval conditions of the previous application had been complied with and the planning permission lapsed on 9.9.2020. Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application within the same “GB” zone on the OZP.

8. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3** and site photos on **Plan A-4**)

8.1 The Site is:

- (a) fenced off and partly hard paved;
- (b) used as hobby farm and adventure centre with a structure at the south-eastern portion of the Site; the remaining areas are grass land, farming area and footpath; and
- (c) accessible via a local track connecting Kam Tsin South Road.

8.2 The surrounding area is predominantly rural in nature mainly with domestic structures, ruins and a densely vegetated knoll:

- (a) to the north, east and south are domestic structures, vacant structures, ruins and unused land; to the further southeast is fallow agricultural land; and
- (b) to the west across the local track are graves, permitted burial ground and a densely vegetated knoll.

9. Planning Intention

9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

9.2 The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the Site;
- (b) the existing structures on the Site are not acceptable under the Lease concerned. His office reserves the right to take enforcement actions against

the aforesaid structures;

- (c) according to the submission, a toilet would be erected on the Site. The applicant should note that any proposed toilet facility should meet current health requirements;
- (d) it is noted that the vehicular access to the Site may route through various private lots and a Government Land Licence No. T7375 (GLL) (**Plan A-2**). The applicant should seek consents to using the concerned lots and GLL for access purpose from the concerned owners and GLL holder; and
- (e) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Wavier (STW) covering all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he considers the proposal tolerable from traffic engineering point of view; and
- (b) the vehicular access between the Site and Kam Tsin South Road is not managed by his department. The applicant should seek comment from the responsible party.

Environment

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

- (a) according to the submission, no public announcement system is planned to install at the Site. The applicant is reminded to minimise any noise from the applied use such as prohibiting the use of portable loudspeakers or any form of audio amplification system so that it would not cause adverse environmental nuisance to nearby sensitive receivers;
- (b) he has no objection to the application from environmental planning perspective subject to the following condition:

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 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” (CoP) in order to minimise the potential environmental impacts on the adjacent area;
- (d) the applicant indicates that there are existing stream courses at the east and northwest sides of the Site (**Appendix Ia**). The applicant is advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal, follow relevant measures given in his department’s latest CoP, and put in place necessary precautionary/pollution control measures to prevent any pollution to the nearby sensitive receivers and stream courses as a result of the operational and construction activities. Best management practice should be adopted to avoid refuse/waste water/sewage and other pollution from entering the surface runoff and the stream courses; and
- (e) there is no environmental complaint against the Site received by DEP in the past three years.

Sewerage

10.1.4 Comments of the DEP:

there is no existing public sewer in the vicinity of the Site. While noting that toilet is proposed under the application, the applicant shall have to provide his own effective sewage treatment and disposal measures to cater for any sewage arising from the operation of the development. The design and construction of septic tank and soakaway system should follow the requirements of his department’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.

Landscape

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) he has no objection to the application from landscape planning perspective;
- (b) it is observed that the layout of the applied temporary use is similar to the proposal under the previous application No. A/NE-KTS/451. According to the site visit conducted on 9.10.2020, 18 existing trees are found within the Site and they are all common species with fair to good condition. Refer to the landscape and tree preservation plan (**Drawing A-2**), all existing trees within the Site are proposed to be preserved. No adverse impact on the existing landscape resources within the Site is anticipated due to the applied temporary use; and
- (c) should the application be approved, condition should be included to request the applicant to maintain all existing trees within the Site satisfactorily at all

time during the approval period.

Drainage

10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection to the application; and
- (b) the applicant has completed the design and implementation of the necessary drainage works under the previous application No. A/NE-KTS/451. Should the application be approved, condition should be included to request the applicant to submit the record of the condition of the existing drainage system for the Site.

Building Matters

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) he has no objection to the application; and
- (b) there is no record of submission of the proposed building/structure in his department for approval. His advisory comments on the proposed new buildings are at **Appendix IV**.

Nature Conservation

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

according to the aerial photo, the Site is currently paved within some temporary structures. Considering that the previous application for the similar use to the current application was approved by the Board, he has no strong view against the application.

Fire Safety

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

- (a) he has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. His detailed advisory comments are at **Appendix IV**; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service

requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

10.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals from 9.10.2020 to 23.10.2020; and
- (b) the North District Council (NDC) member of the subject Constituency and the Indigenous Inhabitant Representative (IIR) of Kam Tsin support the proposal. The Chairman of Sheung Shui District Rural Committee (SSDRC) and the Resident Representative (RR) of Kam Tsin have no comment.

10.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) (his advisory comments at **Appendix IV**);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Commissioner of Police (C of P);
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

11. Public Comments Received During Statutory Publication Period

On 25.9.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 3 public comments (**Appendices III-1 to III-3**) from a North District Council (NDC) member and 2 individuals were received. Two comments object to the application mainly on the grounds that the temporary application would affect the comprehensive rural planning in the North District; the applied use is not in line with the planning intention of "GB" zone and would have adverse impact on existing landscape; and approval of the application would set undesirable precedent. The remaining comment indicates no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for temporary hobby farm and adventure centre use for a period of 3 years at the Site partly zoned "GB" (about 88%) and partly zoned "REC" (about 12%). 'Place of Recreation, Sports or Culture' use is always permitted within "REC" zone while it is a Column 2 use within "GB" zone. The planning intention of the "GB" zone is primarily to define the limits of urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. The proposed hobby farm and adventure centre to provide recreational outlet is considered not entirely

in conflict with the planning intention of the “GB” zone. 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 “GB” zone.

- 12.2 The Site covers an area of about 971m². According to the applicant, the majority of the Site (about 64%) will be uncovered and unpaved and 51% of the Site will be used for hobby farm. The main temporary structure of 7.6m high is for adventure centre, office, rest room, toilet and storage uses (**Drawing A-1**). Another small structure of 3m high is for storage use. The total GFA is 197.48m². It is considered not incompatible with the surrounding rural character which mainly comprises domestic structures, ruins and a densely vegetated knoll (**Plan A-2**). The Site is at the fringe of the “GB” zone. It is generally surrounded on three sides by “REC” zone and about 12% of the Site actually falls within “REC” zone. DAFC has no strong view on the application. A total of 18 existing trees will be preserved (**Drawing A-2**). CTP/UD&L, PlanD has no objection to the application. The temporary development also does not involve site formation, land filling, excavation, clearance of existing natural vegetation, adverse impact on visual, existing trees and natural landscape features, and as elaborated in paragraph 12.3 below, it would not overstrain the capacity of existing and planned infrastructure. In view of the above, it is considered that the temporary use does not contravene the TPB PG-No. 10.
- 12.3 According to the applicant, no public announcement system will be used at the Site. In view of the nature and scale of the temporary hobby farm and adventure centre, it would unlikely cause significant adverse environmental, traffic, drainage, fire safety and water supply impacts to the surroundings. Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CE/C, WSD 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 13.2 below. The applicant will also be advised to adopt the environmental mitigation measures and requirements as set out in the latest CoP. The conditions/technical requirements suggested by concerned departments are recommended in paragraph 13.2 below.
- 12.4 There is one previous planning permission for temporary hobby farm for a period of 3 years as detailed in paragraph 6. The previous application does not involve adventure centre use. There is no similar application in the same “GB” zone.
- 12.5 There are local comments conveyed by DO(N) and 3 public comments received during the statutory publication period as stated in paragraph 10.1.10 and 11, with both supportive and objecting comments. The departmental comments and planning considerations and assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local views and public comments mentioned in paragraphs 10.1.10 and 11, the Planning Department has no objection to the temporary place of recreation, sports or culture (hobby farm and adventure centre) with ancillary private car parking for a period of 3 years.

13.2 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 up to 22.1.2024. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no land filling is allowed on the Site during the planning approval period;
- (b) no operation between 7:30 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) the existing trees on the Site should be maintained at all times during the planning approval period;
- (e) no vehicle other than private car, as proposed by the applicant, is allowed to/from the Site at any time during the planning approval period;
- (f) the submission of a record of the existing drainage facilities on the Site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.4.2021;
- (g) the submission of fire service installations and water supplies for fire fighting proposals 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 22.7.2021;
- (h) in relation to (g) above, the implementation of fire service installations and water supplies for fire fighting proposals 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 22.10.2021;
- (i) if any of the above planning conditions (a), (b), (c), (d) 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;
- (j) if any of the above planning conditions (f), (g) or (h) 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
- (k) upon expiry of the planning permission, the reinstatement of the application 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**.

- 13.3 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 "Green Belt" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Supplementary Statement and a Letter of 15.9.2020 received on 17.9.2020
Appendix Ia	Further Information of 29.10.2020
Appendix Ib	Further Information of 3.12.2020
Appendix II	Previous Application
Appendices III-1 to III-3	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape and Tree Preservation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos