

RNTPC Paper No. A/YL-KTN/620  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 7.9.2018

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/620**

<b><u>Applicant</u></b>	:	Mr. TANG Wai-Ip
<b><u>Site</u></b>	:	Lot 1211 in D.D. 107, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	:	737.1 m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) 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) for a period of 3 years. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ use is a Column 2 use within the “AGR” zone, which requires permission from the Town Planning Board (the Board). The Site is not subject to any previous application. The Site is currently vacant and covered by grass (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves 3 one-storey temporary structures (2.62m high) for reception, learning centre and lounge, farm tools storage, and electric meter room, as well as open sheds (3.5m high or lower). The total covered area for the structures is 79.3m<sup>2</sup>. The farming area is 515m<sup>2</sup> (i.e. 69.9% of the total site area) while the paved area is 222.1m<sup>2</sup> (i.e. about 30.1% of the total site area). Three private car parking spaces will be provided on Site. The operation hours of the proposed hobby farm is from 9am to 6pm daily, including public holidays. The Site is accessible via a local track branching off San Tam Road. It is estimated that there will be about 10 to 15 visitors at one time and

appointment is needed to visit the proposed hobby farm. No public announcement system will be used at the Site. The proposed site layout plan, landscape plan, drainage plan and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-4**.

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

- (a) Application form with plans received on 18.7.2018 **(Appendix I)**
- (b) Further Information (FI) dated on 29.8.2018 clarifying **(Appendix Ia)** the traffic arrangement, operation details and revised layout plan in response to department comments  
*(accepted and exempted from publication and recounting requirement)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 9 of the Application Forms and FI in **Appendices I and Ia**. They can be summarized as follows:

- (a) The proposed development is on temporary basis with no permanent buildings and the Site is easily reinstate, which will not jeopardize the long-term planning intention. Several applications in the vicinity for hobby farm have been approved by the Rural and New Town Planning Committee (the Committee) and the same considerations should be given to the application.
- (b) The proposed paved area will be removed after the expiry of the planning permission. Drainage facilities will be provided and maintained and no adverse impact on the nearby soil and stream is anticipated. The visitors will be encourages to use public transport and no adverse traffic impact is anticipated.

## **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. 31) 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 any active enforcement case.

#### 5. **Previous Application**

There is no previous application at the Site.

#### 6. **Similar Applications**

- 6.1 There are thirteen similar applications (No. A/YL-KTN/394, 465, 474, 513, 516, 520, 535, 536, 538, 571, 579, 609 and 610) within the same “AGR” zone on the Kam Tin North OZP. Details of the applications are summarized in **Appendix II** and the locations of the application sites are shown on **Plan A-1**.

##### *Approved applications*

- 6.2 Applications No. A/YL-KTN/465, 516, 535, 538 and 571 for temporary hobby farm (A/YL-KTN/535 included caravan holiday camp) for a period of 3 years for five sites near Cheung Kong Tsuen and Tai Kong Po (**Plan A-1**) were approved by the Committee with conditions on 3.7.2015, 18.3.2016, 13.1.2017, 23.12.2016 and 8.9.2017 respectively mainly for the reasons that the proposed developments were generally in line with the planning intention of the “AGR” zone; the use was not incompatible with the surrounding land uses; and the proposed development would unlikely cause significant adverse environmental, traffic, landscape or drainage impacts.
- 6.3 Applications No. A/YL-KTN/474, 513, 520, 536, 579, 609 and 610 for temporary hobby farm (A/YL-KTN/520 included caravan camp) for a period of 3 years for 6 sites at Fung Kat Heung and near Shui Mei Tsuen (**Plan A-1**) were approved by the Committee with conditions on 7.8.2015, 18.3.2016, 27.5.2016, 13.1.2017, 22.12.2017 and 3.8.2018 respectively on similar considerations as those in paragraph 6.2 above.
- 6.4 However, applications No. A/YL-KTN/465, 474, 513, 516 and 538 were revoked on 3.4.2016, 7.8.2016, 8.2.2018, 18.12.2016 and 23.9.2017 due to non-compliance with approval conditions in relation to submission and/or implementation on landscape, drainage and fire services installation proposals.

##### *Rejected application*

- 6.5 Application No. A/YL-KTN/394 for proposed temporary field study/education centre and hobby farm for a period of 5 years was rejected by the Board on review on 14.6.2013 mainly on the grounds that the site was the subject of unauthorized land filling and the filling material were not suitable for cultivation; there was no detailed information regarding the design and operation of the proposed

development particularly the hobby farm, field study/education centre and the office with porch; 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 a general degradation of the rural environment of the area.

## **7. The Site and Their Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is :

- (a) currently vacant and covered by grass; and
- (b) accessible via a local track branching off San Tam Road (**Plan A-1**).

7.2 The surrounding areas are rural in character predominated by residential dwellings/structures, plant nurseries, open storage yards, fallow agricultural land and unused/vacant land.

- (a) to its north and east are residential dwellings/structures and unused/vacant land. Further north and northeast are residential dwellings/structures and car servicing use within area zoned “Industrial (Group D)”; and
- (b) to its immediate south is an open storage yard. Further south and west are residential dwellings/structures, open storage yard, plant nurseries, fallow agricultural land and unused/vacant land.

## **8. Planning Intention**

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.

## **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 an Old Scheduled Agricultural Lot 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) The Site is accessible from San Tam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should the applications be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. 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 landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

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

- (a) He has no objection to the application.
- (b) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles.
- (c) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (d) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD does not and will not maintain any access connecting the Site with Castle Peak Road – Tam Mi, Chi Ho Road and San Tam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Sites to the nearby public roads and drains.

**Environment**

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

- (a) According to the applicant, the proposed hobby farm would not involve public announcement system, portable loudspeaker or any form of audio amplification system.
- (b) 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.
- (c) The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.
- (d) It is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourses adjacent to the Site. 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”.
- (e) There was no complaint received in the past 3 years for the Site.

### **Agriculture and Conservation**

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

- (a) It is noted that the applicant planned to grow vegetables and fruits in his farm and agreed to remove the proposed pavement when the planning permission expired. As such, he has no strong view against the application from agricultural point of view.
- (b) The access to the east of the Site would inevitably be crossing over a streamcourse. Further culverting, filling, alterations and pollution to abutting streamcourse should be avoided as far as possible.
- (c) Should the application be approved, the Board may consider imposing appropriate reinstatement condition in order to minimize the impact of pavement. The applicant shall also be advised to adopt measures in order to avoid causing pollution and disturbance to the abutting watercourses.

### **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 applications from the landscape planning point of view.
- (b) The surrounding area is in rural fringe character composed of temporary structures, storage yards, vacant land and tree groups. The proposed land use is considered not incompatible with existing land use.
- (c) With reference to site inspection in August 2018, the Site is cleared without significant vegetation. According to the proposed layout plan, most of the areas remain soft ground for agricultural use. Further significant adverse impact arising from the proposed use is not anticipated.
- (d) Should the applications be approved, approval condition on submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Board should be included in the planning permission.

### **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, approval conditions requiring the submission, implementation and maintenance of a revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
  - (c) His detailed comments on the submitted drainage proposal submitted are at **Appendix III**.

### **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) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) 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 BD's 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) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the 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 proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposals, 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.

### **Environmental Hygiene**

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) For any waste generated from the such activity / operation, the applicant should arrange its disposal properly at her own expenses.
- (c) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.

### **Electricity**

#### 9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.

- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the ‘Code of Practice on Working near Electricity Supply Lines’ established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **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 comment from the locals on the application and he has no comment on the application.

9.2 The following Government departments have no comment on the applications:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) ; and
- (c) Commissioner of Police (C of P).

## **10. Public Comments Received During Statutory Publication Period**

On 27.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.8.2018, five objecting comments from Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Designing Hong Kong and a general public (**Appendices IV- to IV-5**) were received mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; adverse sewage impacts; the proposed use is synonymous with brownfield; the Site and its surrounding are subject to suspected unauthorized development and the proposed use will lead to degradation of rural environment and landscape quality of the area; approval of the application will set an undesirable precedent to the similar applications within the “AGR” zone; and the application may be a ‘destroy first, development later’ case.

## **11. Planning Considerations and Assessments**

- 11.1 The proposed temporary hobby farm in “AGR” zone which will involve the use of the Site for farming activities (about 69.9% of the Site will be for farming use according to the applicant) is considered generally in line with the planning intention of the “AGR” zone which is to retain and safeguard good quality agricultural land for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. AFCD has no strong view against the application from agricultural point of view. In view of the above, 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 not incompatible with the surrounding land uses which are rural in character predominated by residential dwellings/structures, plant nurseries, open storage yards, fallow agricultural land and unused/vacant land.
- 11.3 In view of the nature, the proposed development would unlikely cause significant adverse traffic, landscape or drainage impacts and relevant departments consulted including C for T, CTP/UD&L of PlanD, CE/MN of DSD, CE/C of WSD and D of FS also have no adverse comment on the application. To avoid possible noise nuisance arising from the use of loudspeakers/ amplifier, etc. and to minimise other possible environmental nuisance, approval conditions restricting the operation hour and prohibiting the use of public announcement system is recommended in paragraph 12.2(a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the environmental mitigation measures as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The concerns / technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2 (c) to (k) below.
- 11.4 Twelve similar applications for hobby farm (three with caravan camp) were approved by the Committee on the same “AGR” zone (paragraph 6 and **Plan A-1** refer). Approval of the application is in line with the Committee’s previous decision.
- 11.5 Five objecting public comments were received during the statutory publication period for reasons as mentioned in paragraph 10 above. In this regard, relevant departments have no adverse comments on the application. The planning considerations and assessments above are also relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments in paragraph 10, PlanD considers that the proposed temporary place of recreation, sports or culture (hobby farm) 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 7.9.2021. 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, as proposed by the applicant, is allowed to be used on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.3.2019;
- (f) in relation to (e) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.6.2019;
- (g) 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 7.3.2019;
- (h) in relation to (g) 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 7.6.2019;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (j) 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 7.3.2019;
- (k) in relation to (j) above, the provision of fire service installations 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 7.6.2019;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (i) is not complied with during planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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
- (n) 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 to retain and safeguard good agricultural land/ farms/ fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. 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**

<b>Appendix I</b>	Application form with plans received on 18.7.2018
<b>Appendix Ia</b>	FI received on 29.8.2018
<b>Appendix II</b>	Similar applications within the same “AGR” zone in the vicinity on the Kam Tin North OZP
<b>Appendix III</b>	Detailed comments from CE/MN, DSD
<b>Appendices IV-1 to IV-5</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Drawing A-4</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**