

RNTPC Paper No. A/YL-KTN/705  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 15.5.2020

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

**APPLICATION NO. A/YL-KTN/705**

<b><u>Applicant</u></b>	:	Miss Chan Po Lin represented by Mr. Kwok Chi Man
<b><u>Site</u></b>	:	Lots 959 RP (Part), 960 RP (Part), 961 RP (Part), 962 RP (Part) in D.D.107, Fung Kat Heung, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	:	About 1,900 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 proposed 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)’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is subject to a previous application (No. A/YL-KTN/513) for the same applied use which was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 18.3.2016. The planning permission was revoked on 18.2.2018 due to non-compliance with approval conditions.
- 1.3 According to the applicant, the proposed development involves 2 single-storey structures with building height of 2m to 7m and a total floor area of about 233m<sup>2</sup> for storage of farm tools and electricity meter room. The Site is currently hard paved and vacant (**Plans A-2 to 4**). The applicant will reinstate the Site to soil

ground upon approval of the application. The farming area will be about 1,075m<sup>2</sup> (i.e. about 56% of the total site area), and the remaining area will be soil ground. The operation hours are from 10am to 5pm daily, including public holidays. There will be two parking spaces for private car/van to be provided at the Site. The Site is accessible from Fung Kat Heung Road via local track. The estimated maximum numbers of visitors per hour on weekday and weekend/public holiday are 20 and 60 respectively. Visitors are required to make appointment and pay entrance fee. The farming area will be subdivided into plots for growing vegetation. No public announcement system and night-time lighting will be used at the Site. The plan showing the site layout submitted by the applicant is at **Drawing A-1**.

- 1.4 Compared with the previous approved application (No. A/YL-KTN/513), the current application is submitted by a different applicant for the same applied use with the same site boundary, but with different layout and increase in floor area from 167m<sup>2</sup> to 233m<sup>2</sup> (+66m<sup>2</sup>/+40%).
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with supplementary statement and **(Appendix I)** plans received on 18.3.2020
  - (b) Further Information (FI) received on 24.4.2020 **(Appendix Ia)** providing responses to departmental comments  
*[exempted from publication requirement]*
  - (c) FI received on 5.5.2020 providing clarification **(Appendix Ib)**  
*[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 development is not in conflict with the planning intention of the “AGR” zone, and compatible with surrounding environment. There are also greenhouses, nurseries and hobby farms in the vicinity.
- (b) The Site is subject to a previous application for temporary hobby farm which was approved in 2016. The current application is for the same use with the same site boundary. Due to financial problem of the previous applicant, the hobby farm was not implemented. The current application is not related to the previous applicant.
- (c) The applicant will follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential

environmental nuisance. The applicant will also be responsible for the cleaning and collection of waste. The proposed development will not cause adverse traffic and environmental impacts on the surrounding area.

- (d) The proposed development aims to provide farming and green living experience to visitors. The applicant has sought comments from the locals and there was no objection to the development.

### **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**

A major portion of the Site is subject to on-going planning enforcement action (No. E/YL-KTN/501) against an unauthorised development involving storage use. Reinstatement Notice was issued on 2.4.2020 to the concerned party requiring reinstatement of the land.

### **5. Previous Application**

The Site is subject to a previous application submitted by a different applicant. Application No. A/YL-KTN/513 for proposed temporary place of recreation, sports or culture (hobby farm) was approved with conditions by the Committee for a period of 3 years on 18.3.2016 mainly for the reasons that the proposed development was generally in line with the planning intention of the “AGR” zone; the proposed development was not incompatible with the surrounding land uses; and there was no adverse departmental comment. However, the planning permission was revoked on 18.2.2018 due to non-compliance with approval conditions on submission and implementation of drainage and fire services installation proposals and implementation of landscape proposal. Details of the previous application is summarized in **Appendix II** and its location is shown on **Plan A-1**.

### **6. Similar Applications**

- 6.1 There are a total of 25 processed similar applications for temporary hobby farm concerning 19 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 II** and their locations are shown on **Plan A-1**.

*24 Approved Applications*

- 6.2 Five applications for temporary hobby farm (one with caravan holiday camp) on five sites near Cheung Kong Tsuen and Tai Kong Po were approved between 2015 and 2017 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, four of them were revoked due to non-compliance with approval conditions.
- 6.3 Nineteen applications for temporary hobby farm (three with caravan holiday camp) on 15 sites at Fung Kat Heung and near Pak Wai Tsuen were approved between 2015 and 2020 for similar reasons as stated in paragraph 6.2 above. However, three of them were revoked due to non-compliance with approval conditions.

*1 Rejected Application*

- 6.4 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 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.
- 6.5 Apart from the above processed similar applications, application No. A/YL-KTN/693 for proposed temporary place of recreation, sports or culture (hobby farm and caravan holiday camp) for a period of 3 years and filling of land within the same “AGR” zone will be considered at the same meeting.

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

7.1 The Site is:

- (a) currently fenced, hard-paved and vacant; and
- (b) accessible via a local track branching off Fung Kat Heung Road.

- 7.2 The surrounding areas are rural in character predominated by active/fallow agricultural land, hobby farms, residential structures/dwellings, open storage yards, plant nurseries and vacant/unused land. Some of them are suspected unauthorized development subject to enforcement action by the Planning Authority:
- (a) to its northeast are three sites for temporary hobby farm use with planning permissions (Applications No. A/YL-KTN/665, 670 and 690) and a site for temporary animal boarding establishment use with planning permission (Application No. A/YLKTN/ 651). To its east are active agricultural land and residential structures/dwellings;
  - (b) to its north and west across a local track are residential structures/dwellings, open storage yards, plant nurseries, hobby farm and active/fallow agricultural land; and
  - (c) to its south are active/fallow agricultural land, residential structures/dwellings (nearest one on the immediate south) and vacant/unused 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 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 lots owners will need to apply to his office to permit the structures 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 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 rent 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 comment on the application from traffic engineering perspective.
- (b) 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.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). 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) Fung Kat Heung Road is not maintained by HyD;
- (b) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive 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):

The Site falls within “AGR” zone and possesses potential for agricultural rehabilitation. He has no strong view against the application from the agricultural point of view on the understanding that agricultural activities are involved in the proposed use and no pavement is proposed.

### **Landscape**

- 9.1.6 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) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures and active farmlands. Given the

nature of the application, the proposed development is not incompatible with the landscape character of the area. In addition, noting that no existing trees is observed within the Site, significant adverse impact on landscape resource is not anticipated. Moreover, a number of applications for similar use adjacent to the Site were approved.

### **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.

### **Building Matters**

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.



- (d) 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.
- (e) 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 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 catering service/activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (b) For any waste generated from the such activity/operation, the applicant should arrange disposal properly at their own expenses. Such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.

**District Officer's Comments**

9.1.11 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 Comments Received During Statutory Publication Period**

On 27.3.2020, the application was published for public inspection. During the three-week statutory public inspection period, two public comments were received from Designing Hong Kong Limited and an individual (**Appendices IV-1 and IV-2**). One objecting to the application on the grounds that the Site was subject to enforcement actions; approval of the application will further legitimize unauthorised use of land; public transportation cannot support the increase of passengers to the Site and bring negative impacts to the residents; and approval of the application will set an undesirable precedent to regularize unlawful activities and lead to general degradation of the rural environment of the area. The other comment considers it is not clear if the Site is part of genuine agricultural activities in the area and there should be an update image showing the current state of the Site.

**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 in the "AGR" zone. 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 56% 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 land uses which are rural in character predominated by active/fallow agricultural land and unused/vacant land.
- 11.3 According to the applicant, public announcement system will not be used at the Site. In view of the nature and scale of the proposed temporary 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 as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, 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/513) for the same applied use approved by the Committee in 2016 as detailed in paragraph 5 above. The planning permission was revoked due to non-compliance with approval conditions. When compared with the last approved application, the current application is submitted by a different applicant covering the same site boundary, but with different layout and larger floor area (+66m<sup>2</sup>/ +40%). Besides, there are 24 similar applications for temporary hobby farm approved with conditions by the Committee between 2015 and 2020 in the same “AGR” zone, with 3 of them located to the immediate northeast of the Site (paragraph 6 and **Plan A-1** refer). The circumstances of the only rejected similar case, as detailed in paragraph 6.4 above, are different. Approval of this application is in line with the Committee’s previous decisions on the previous and similar applications.
- 11.5 Two public comments were received during the statutory publication period, one objects and one provides views 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 comments as 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.
- 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

15.5.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00pm and 10:00am, 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) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) 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 15.11.2020;
- (e) in relation to (d) 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 15.2.2021;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 15.11.2020;
- (h) in relation to (g) 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 15.2.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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 (d), (e), (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 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**

<b>Appendix I</b>	Application form with supplementary statement received on 18.3.2020
<b>Appendix Ia</b>	FI received on 24.4.2020
<b>Appendix Ib</b>	FI received on 5.5.2020
<b>Appendix II</b>	Previous s.16 application covering the Site
<b>Appendix III</b>	Similar applications within the same "AGR" zone on the OZP
<b>Appendices IV-1 and IV-2</b>	Public comments

<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan with Previous and 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  
MAY 2020**