

RNTPC Paper No. A/YL-KTN/745  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 5.2.2021

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

**APPLICATION NO. A/YL-KTN/745**

<b><u>Applicant</u></b>	:	Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Various Lots in D.D. 107, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 3,221 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 5 Years and Filling of Land

**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 5 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 weeds (**A-2 and A-4**).
- 1.2 The proposed development involves four single-storey structures with building height of 3.5m and a total floor area of about 216m<sup>2</sup> for plant nursery, reception, washroom, changing room, storage of farm tools, refreshment kiosk and indoor sitting area. The farming area of the Site will be about 2,004m<sup>2</sup> (about 62% of the Site). The remaining area of about 477m<sup>2</sup> (about 15% of the Site) will be soiled ground and about 740m<sup>2</sup> (about 23% of the Site) will be paved and filled by concrete by not more than 0.2m<sup>1</sup> for site formation of the structures and

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<sup>1</sup> From 9.9 mPD to 10.1 mPD/ 10.2 mPD to 10.4 mPD in the southern part of the Site and from 10.9 mPD to 11.1 mPD in the northern part of the Site.

circulation space of vehicles. 8 private car parking spaces and 1 loading/unloading space for light goods vehicle will 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 30 visitors will be accommodated at the Site, and no public announcement system would be used at the Site. The Site is accessible from Castle Peak Road – Tam Mei via a local track. The site layout plan and paved ratio plan submitted by the applicant are at **Drawings A-1** and **A-2**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary statement and **(Appendix I)** plans received on 8.12.2020
  - (b) Further Information (FI) received on 28.1.2021 **(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. A few similar applications for temporary place of recreation, sports or culture (hobby farm) within the same “AGR” zone were approved by the Board.
- (b) The proposed use is not incompatible with the surrounding land use. The farming activity is similar to agricultural use which is always permitted and can optimize the development potential of precious land resources in “AGR” zone. The proposed use is intended to serve the locals in the Kam Tin area and will bring convenience to the nearby locals.
- (c) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impact to the surrounding areas. The applicant will follow relevant practice notes issued by the Environmental Protection Department (EPD) for sewage treatment and submit application for water pollution control ordinance licence before discharge any wastewater. The Site will be reinstated to a condition suitable for agricultural use after the planning approval period.
- (d) Land filling by concrete is necessary as the loading of the structures could compact the soil ground and weaken the ground surface, and the concrete site formation could stabilize the soil ground and prevent erosion from surface run off. The paved

area and the number of structures are considered necessary and have been kept to minimum for operation.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is currently subject to an on-going planning enforcement action (No. E/YL-KTN/539) (**Plan A-2**) against an unauthorised development (UD) involving filling of land. Enforcement Notice was issued on 9.4.2020 requiring discontinuation of the UD. Reinstatement Notice was issued on 21.4.2020 requiring removal of leftovers, debris and filled materials and to grass the land.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Applications**

Hobby Farm

6.1 There are a total of 30 similar applications for temporary hobby farm concerning 21 sites within the same “AGR” zone. Except application No. A/YL-KTN/394, all the similar applications were approved with conditions by the Rural and New Town Planning Committee (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**.

*29 Approved Applications*

6.2 29 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. Three of the approved applications (Application No. A/YL-KTN/691, 693 and 726) involved filling of land (see paragraph 6.4 below).

#### *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.

#### Filling of Land

- 6.4 There are five applications involving filling of land within the same “AGR” zone. Three are for temporary hobby farm and/ or caravan holiday camp (Applications No. A/YL-KTN/691, 693 and 726), which involved filling of 10% to 29.8% of the site area and with a depth of 0.2 to 0.5m. The remaining two are for temporary animal boarding establishment (Application Nos. A/YL-KTN/716 and 723), which involved filling of the entire site (526.1m<sup>2</sup>/ 734.7m<sup>2</sup>) by about 0.5m. These applications were approved with conditions by the Committee in 2020 for the reasons that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the developments were not incompatible with the surrounding land uses; and/ or the relevant government departments generally had no adverse comments on the applications.

### **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

7.1 The Site is:

- (a) currently vacant and covered by weeds; and
- (b) accessible from Castle Peak Road – Tam Mi via a local track.

7.2 The surrounding areas are rural in character predominated by residential structures/dwellings, open storage/storage yards, animal boarding establishment, plant nursery, orchard and vacant/unused land:

- (a) to its north and northeast are residential structures/dwellings, open storage/storage yards, two pieces of land for proposed hobby farm (with planning permission) and vacant/unused land;

- (b) to its east is vacant land;
- (c) to its immediate northwest is a stream course. To its further west are plant nursery, orchard, animal boarding establishment, vacant land and open storage yards; and
- (d) to its south is pond and vacant land. A storage yard is adjacent to its southeastern corner.

## **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 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 the 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 the traffic engineering point of view.
- (b) 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 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) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Tam Mi.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and 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" including percolation test. It is the obligation of the application to meet the statutory requirements under relevant pollution control ordinances.

- (c) There was one environmental complaint related to waste aspect concerning the Site received by DEP in 2019.

### **Agriculture and Nature Conservation**

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

- (a) The site falls within the “AGR” zone and possesses a potential for agricultural rehabilitation. 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.
- (b) It is that the Site is vacant and a 2m buffer zone will be included to avoid disturbance to the natural stream to the west of the Site. Part of the Site was involved in a case of unauthorized land filling. The site history and whether ‘destroy first, develop later’ approach would be encouraged should be taken into account when considering the application.

### **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, active and abandoned farmlands. The proposed development is not incompatible with the

surrounding landscape setting. It is also noted that planning applications (Nos. A/YL-KTN/620, 626 and 660) of similar use within the “AGR” zone in proximity to the Site were approved. A few existing trees are observed adjacent to the southern boundary. Referring to the applicant’s submission, existing trees will be preserved as far as practical. Significant adverse impact to landscape resources with the Site arising from the proposed development is not anticipated.

- (c) The applicant is reminded that approval of the planning application under Town Planning Ordinance does not imply approval of tree preservation/ removal scheme under the Lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

### **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) There is no record of approval by the Building Authority (BA) for the existing structures at the Site. He is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.



- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix IV**.
- (d) Detailed checking under the 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.

### **District Officer's Comments**

#### 9.1.10 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 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 18.12.2020, the application was published for public inspection. During the three-week statutory publication period, three comments (**Appendices III-1 to III-3**) were

received from the Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual. All three public comments object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent in the “AGR” zone; the Site is subject to enforcement action and ‘destroy first, built later’ practice should not be encouraged; and a large site of arable land should be used for local agricultural production.

## **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 5 years in the “AGR” zone and filling of land at part of the Site (740m<sup>2</sup>/ 23%) by not more than 0.2m. 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 62% 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 residential structures/dwellings, animal boarding establishment, plant nursery, orchard and vacant/unused land. According to the applicant, the structures and paving/filling of land at the Site have kept to minimum for operational needs. The paving/ filling of land is for site formation of structures and circulation space of vehicles. CE/MN of DSD and DEP have no in-principle objection to the proposal.
- 11.3 According to the applicant, public announcement system will not be used 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 C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2(c) to (h) below.

- 11.4 The Site is not subject to any previous application. There are 29 similar applications for temporary hobby farm approved by the Committee between 2015 and 2020 and five applications for filling of land approved by the Committee in 2020 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 similar applications.
- 11.5 Three public comments were 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 comments 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 5 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 5 years until 5.2.2026. 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) 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 5.8.2021;
- (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 5.11.2021;
- (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 5.8.2021;
- (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 5.11.2021;
- (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 IV**.

- 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 and plans received on 8.12.2020
<b>Appendix Ia</b>	FI received on 28.1.2021
<b>Appendix II</b>	Similar applications within the same “AGR” zone on the OZP
<b>Appendices III-1 to III-3</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Paved Ratio 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  
FENUARY 2021**