

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

**APPLICATION NO. A/YL-SK/290**

<b><u>Applicant</u></b>	Wai Tak Engineering Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	Lot 1640 S.B in D.D. 114, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	About 740 m <sup>2</sup>
<b><u>Lease</u></b>	Tai Po New Grant No. 2998 (for fruit growing purpose)
<b><u>Plan</u></b>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/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 (**Plan A-1**) and to fill part of the Site which is required for the proposed structure (**Drawing A-2**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land. The Site is currently fenced off and covered by grass, with a few containers and open storage of construction materials.
- 1.2 According to the applicant, part of the Site (about 144m<sup>2</sup> or about 19.5% of the Site) is proposed to be filled up (by not more than 0.2m to raise the site level from about 50.3 mPD to about 50.5 mPD) and hard-paved for a single-storey temporary structure (of about 3.5m high with floor area of about 144m<sup>2</sup>) which will be used for reception, agricultural education room, storage of farm tools, washrooms and changing rooms (**Drawing A-1**). The remaining part of the Site of about 596m<sup>2</sup> (about 80.5% of the Site) will be unpaved and used as plots of farmland, footpath and circulation spaces (**Drawing A-2**). The opening time is 9:00am to 6:00pm daily, including public holidays. The Site is accessible via a local track from Kam Sheung Road, and two private car parking spaces for visitors will be provided at the Site. The layout plan and paving ratio plan submitted by the applicant are at **Drawings**

**A-1 to A-2.**

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

- (a) Application Form with Planning Statement received on 21.9.2020 **(Appendix I)**
- (b) Further information (FI) received on 11.11.2020 **(Appendix Ia)**  
*(exempted from publication)*

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarized as follows:

*For proposed development*

- (a) The proposed development is on a temporary basis for a period of 5 years and therefore will not jeopardize the long-term planning intention of the “AGR” zone. It is also considered not incompatible with the surrounding land uses. Upon the expiry of the planning permission, the Site will be reinstated to an amenity area, and this would not set an undesirable precedent.
- (b) In terms of the farm operation, the estimated number of visitors would be about 20 per day, and there will be five staff at the Site. A total of two inbound and two outbound trips per day are anticipated to be generated by the proposed development. Advance appointment shall be made by visitors if they wish to drive to and park on the Site. As the traffic generation will be minimal, no adverse traffic impact is envisaged due to the proposed use. In addition, there are no loudspeakers, audio amplifiers and public announcement system to be installed within the Site to minimise noise nuisances to the surroundings.
- (c) The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) issued by the Environmental Protection Department (EPD) in order to minimize possible environmental impacts to the nearby sensitive receivers. Pesticides will not be used to promote organic farming. In addition, the applicant will preserve the existing tree at the Site and will submit a landscape proposal upon the approval of the application.

*For filling of land*

- (d) Only about 19.5% of the Site will be filled up by not more than 0.2m and hard-paved for the proposed structure. The footpath and circulation spaces including two private car parking spaces within the Site will be on soil ground. The applicant will reinstate the Site to a condition suitable for agricultural use after the expiry of planning approval.

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 (TPB) 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 at the Site and sending notice to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

While the Site is currently not subject to any active planning enforcement action, it was once subject to a planning enforcement action (No. E/YL-SK/205) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) and Reinstatement Notice (RN) were issued in 2018 and 2019 respectively, and Compliance Notice (CN) was subsequently issued on 24.10.2019.

5. **Previous Application**

There is no previous application in respect of the Site.

6. **Similar Application**

There is no similar application for hobby farm use within the same “AGR” zone on the OZP.

7. **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**)

7.1 The Site is:

- (a) fenced off and covered by grass, with a few containers and open storage of construction materials; and
- (b) is accessible via a local track of about 450m long to its northwest from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character with active/fallow farmland, domestic dwellings/structures, storage/open storage yards and vacant/unused land:

- (a) to its immediate northeast across the local track is a site with two recent planning approvals for proposed temporary shop and services (metalware retail shop) within the “Residential (Group D)” (“R(D)”) zone, i.e. Applications No. A/YL-SK/251 (without filling of land) and A/YL-SK/271 (with filling of land) (**Plan A-2**);

- (b) to its north and east are mainly a cluster of domestic dwellings/structures and unused land within “R(D)” zone. To its further north is an open storage yard of construction materials; and
- (c) to its south and west are an orchard, fallow farmland, burial urns and vacant/unused land intermixed with a few domestic dwellings/structures within “AGR” zone.

## **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 As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, planning 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 Lot 1640 S.B held under Tai Po New Grant No. 2998 for fruit growing purpose; and
- (b) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to waive the user restriction(s) as stipulated in the lease conditions to permit the structure(s) to be erected and/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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

### **Traffic**

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

- (a) having regard to the FI (**Appendix Ia**), 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; and
- (c) the applicant should note that 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 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/New Territories West, Highways Department (CHE/NTW, HyD):

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

**Agriculture and Nature Conservation**

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

- (a) the Site falls within “AGR” zone and possesses 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; and
- (b) noting the Site is disturbed, he has no comment on the application from nature conservation perspective.

**Landscape**

9.1.5 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo taken on 12.9.2019, the Site is situated in an area of disturbed rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmland. The proposed use is considered not incompatible with the surrounding

environment;

- (c) with reference to the site inspection on 5.10.2020, the Site is partly fenced off and covered with grass where some temporary structures and construction railings are found. According to the applicant's submission (**Drawing A-2**), the proposed land filling by not more than 0.2m covers about 20% of the site area. One existing tree of common species (**Plan A-4**) is observed within the proposed farmland area of the Site. It is noted that the applicant will preserve the existing tree at the Site. Significant adverse impact on landscape resources arising from the development is not anticipated; and
- (d) the applicant is reminded that approval of the planning application under the 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.

### **Environment**

#### 9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application from environmental planning perspective;
- (b) the applicant is advised to (i) follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site" to minimize any potential environmental nuisance; (ii) provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use; and (iii) minimise any noise from the proposed use, and the use of public announcement systems, audio amplifier and loudspeakers shall be prohibited. His detailed comments are at **Appendix III**; and
- (c) there is no substantiated environmental complaint received by DEP in the past three years.

### **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 public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the implementation and maintenance of the 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) as there is no record of approval granted 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) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any applied use under the application;
- (c) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (d) before any new building works (including containers/open sheds as temporary buildings, demolition, land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.

### **Fire Safety**

9.1.9 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 being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations 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 fire service installations to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, 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):

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

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

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

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

On 29.9.2020, the application was published for public comments. During the three-week statutory publication period, a total of 170 public comments were received from a Yuen Long District Council Member, Pat Heung Rural Committee, two Indigenous Inhabitant Representatives and Resident Representative of Sheung Tsuen, Chairperson and Vice-chairperson of Sheung Tsuen Village Committee and 159 local residents (all in similar letter format), The World Wide Fund For Nature Hong Kong, The Hong Kong Bird Watching Society, Designing Hong Kong Limited and one individual (**Appendix II**). All are objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone and would set an undesirable precedent; it would induce more visitors and frequent traffic and thus increase the burden of the narrow, single-lane local track; it would disturb the tranquil local environment and bring nuisance to the permitted burial grounds for indigenous villagers nearby (**Plan A-1**).

## **11. Planning Considerations and Assessment**

11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site for a period of 5 years, with filling of land at a portion of the Site (about 19.5%) (**Drawing A-2**) by not more than 0.2m for placing the proposed structure. The planning intention of the "AGR" zone is 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. The proposed use is generally not in conflict with the planning intention of the "AGR" zone, and the majority of the Site (about 80.5%) will not involve filling of land and will remain unpaved for farmland, footpaths and parking/circulation spaces. DAFC has no strong view on the application from the agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning



intention of the “AGR” zone.

- 11.2 The proposed temporary hobby farm with only one single-storey structure with a floor area of about 144m<sup>2</sup> is not incompatible with the surrounding environment which is mainly occupied by active/fallow farmland and domestic dwellings/structures (**Plan A-2**). According to the applicant, the estimated number of visitors would be about 20 per day, and there will be only five staff at the Site. Two private car parking spaces will be provided at the Site. C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To mitigate potential environmental impacts on the surrounding areas, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (b) to (g). Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 Regarding the 170 objecting public comments received during the statutory publication period, the departmental comments and planning considerations and assessment 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 in paragraph 10, the Planning Department has no objection to the application.
- 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 20.11.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.5.2021;
- (d) in relation to (c) above, the implementation of drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.8.2021;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.5.2021**;
- (g) in relation to (f) above, the implementation of fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.8.2021**;
- (h) if any of the above planning condition (a), (b) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice;
- (i) if any of the above planning condition (c), (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (j) upon the 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 at **Appendix III**.

- 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. It 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 to justify 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 Planning Statement received on 21.9.2020
<b>Appendix Ia</b>	Further information (FI) received on 11.11.2020
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Paving Ratio Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
NOVEMBER 2020**