

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

**APPLICATION NO. A/YL-SK/261**

<b><u>Applicant</u></b>	Senior Buddy Charity Farm Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	Lots 1626 RP (Part), 1627 RP (Part), 1628 S.A ss.1 (Part), 1628 S.B RP (Part), 1628 S.C ss.1 (Part), 1628 S.D, 1644 S.B (Part), 1644 RP (Part), 1645 RP (Part) and 1646 RP (Part) in D.D. 112, and Adjoining Government Land, Shui Tsan Tin, Shek Kong, Yuen Long
<b><u>Site Area</u></b>	About 4,474m <sup>2</sup> (including about 90m <sup>2</sup> of Government land)
<b><u>Lease/ Land Status</u></b>	Block Government Lease (demised for agricultural use) (about 98% of the Site); and Government Land (GL) (about 2% of the Site)
<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>	Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 Years (with Filling of Land by 0.2m)

**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 5 years (**Plan A-1**). Filling of land by 0.2m is proposed at a small part of the Site (about 5% of the Site area). 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 filling of land for the said use require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of a previous application (No. A/YL-SK/229) for the same applied use for a period of 3 years (involving a smaller site area but not involving filling of land) by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 10.11.2017. However, the planning approval was revoked on 10.2.2019 due to non-compliance

with approval conditions in relation to the submission and implementation of drainage proposal, and implementation of landscape proposal and fire service installations (FSIs) proposal. Under this application, the applicant has submitted above three proposals to demonstrate commitment in fulfilling the approval conditions.

1.3 According to the applicant's submission, three single-storey temporary structures (of about 3-3.5m high and about 273m<sup>2</sup> non-domestic floor area) will be erected for canopy (used as rainshetlers), greenhouse, storage of farm tools, reception, water tank and toilet. Solar panels solely for the use of the applied development are proposed on the rooftop for Structure B1. The proposed layout is shown in **Drawing A-1**. A small area of about 228m<sup>2</sup> (about 5% of the Site area) at the central portion (**Drawing A-2**) will be filled up by 0.2m and hard-paved for the site formation of Structures B1 and B2, whereas about 685m<sup>2</sup> (about 15% of the Site area) will be covered by lawn or slatted flooring for pedestrian pathway and Structure B3. The remaining part of the Site of about 3,561m<sup>2</sup> (about 80% of the Site area) will be unpaved and occupied by plots of farmland (**Drawing A-2**). According to the applicant, the opening time is 9:00am to 7:00pm daily, including public holidays. The estimated number of visitors would not exceed 15 and 30 per day during weekday and weekend respectively, and there will be 5 staff at the Site. There are no vehicular access, parking and loading/unloading space at the Site. Visitors and staff are required to walk for about 600m from Kam Sheung Road via a local trail to the Site (**Plan A-1**). The layout plan, paved area ratio plan, FSIs plan, landscape plan and drainage plan submitted by the applicant is at **Drawings A-1 to A-5**.

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

- (a) Application form with attachments received on 12.8.2019 **(Appendix I)**
- (b) FI dated 24.9.2019 **(Appendix Ia)**  
*(exempted from publication requirement)*

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

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

- (a) The applied 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. 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) The applied development is intended to serve as an eco-education farm to enhance the public awareness about the importance of agriculture and to promote sustainable agricultural development in Hong Kong. Their major target groups include elderly and retired persons.
- (c) In terms of farm operation, visitors are required to pre-book to access the Site, and walk-in visitors will not be served. Large farm tools (e.g. rakes, forks and shovel) currently used at the Site will be remained at the Site for future use, and small goods (e.g. seeds and nutrients for plants) will be hand-carried to the Site from Kam

Sheung Road by staff. In addition, there is no public announcement system to be installed within the Site to minimise noise nuisances to the surroundings.

- (d) The applicant would follow the Practice Note for Professional Persons (ProPECC PN) issued by the Environmental Protection Department (EPD) in order to minimize sewerage impact to the surrounding areas. Besides, the applicant is committed to implement the landscape proposal, proposed drainage facilities and FSIs (if required) upon obtaining the planning approval from the Board.

### **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 by local registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land, the “Owner’s Consent/Notification” Requirements as set out in TPB PG-No.31A are not applicable.

### **4. Background**

The Site is subject to planning enforcement action against the unauthorized development (UD) involving place of recreation, sports or culture (hobby farm) use at the Site (**Plan A-2**). An Enforcement Notice (EN) was issued on 31.7.2019 requiring the discontinuation of the UD. If the EN is not complied with, prosecution action may be taken.

### **5. Previous Application**

- 5.1 The Site is involved in one previous application (No. A/YL-SK/229) for the same applied use submitted by the same applicant involving a smaller site area and different layout but not involving filling of land. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 Application No. A/YL-SK/229 for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years was approved with conditions by the Committee on 10.11.2017 on the consideration that the development would not jeopardize the long-term planning intention of the “AGR” zone; it was not incompatible with the surrounding environment; relevant Government departments consulted had no adverse comment on the application; and the technical requirements of the department could be addressed by the approval conditions. However, the planning approval was revoked on 10.2.2019 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal, and implementation of landscape proposal and FSIs proposal.

### **6. Similar Application**

There is no similar application for temporary place of recreation, sports or culture (hobby

farm) within the same “AGR” zone on the OZP.

## **7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)**

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) is accessible via a local trail of about 600m in length from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character mainly occupied by active/fallow farmland and residential structures/dwellings:

- (a) to its north and northeast are active/fallow farmland and residential structures/dwellings under “Village Type Development” (“V”) zone; and
- (b) to its other sides are fallow farmland.

## **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 Government land (GL) and 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) no permission is given for occupation of GL (about 90m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed;
- (c) the Site is accessible from Kam Sheung Road via GL and private land. DLO/YL, LandsD provides no maintenance work for the GL

involved and does not guarantee any right-of-way over the GL to the Site;

- (d) 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; and
- (e) should planning approval be given to the planning application, the lot owner(s) will need to apply to DLO/YL, LandsD to permit the structure(s) to be erected or regularize any irregularities on Site. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a direct grant STT for use of the Site. 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(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 premium or fee, as may be imposed by LandsD.

### **Traffic**

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

he has no comment on the application considering that there is no parking provision nor vehicular access to the Site and the induced traffic impact is minimal, as indicated by the applicant.

#### 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 with Kam Sheung Road; and
- (b) adequate drainage measures should be provided at the Site access to prevent surface water running from the Site to the nearby public roads or exclusive road drains.

### **Nature Conservation and Agriculture**

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

taking into account the proposed agricultural activities at the Site as indicated by the applicant, he has no strong view on the application from agricultural point of view, provided that the Site, if pavement is involved, will be reinstated upon the expiry of the planning permission.

## **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 22.3.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, abandoned farmland and village houses. The application is considered not incompatible with the surrounding environment; and
- (c) with reference to the site inspection on 29.8.2019, the Site is occupied with active farmland. No existing tree is found within the Site. Significant adverse impact on landscape resources is not anticipated.

## **Environment**

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

- (a) he has no objection to the application from environmental planning perspective, provided that the applicant would minimize the noise from the applied use such as prohibiting the use of public announcement system, portable loudspeaker or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers;
- (b) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling 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 applied use. If septic tank and soakaway system will be used, its design and construction should follow the requirements of EPD’s Practice Note for Professional Persons (ProPECC PN) No. 5/93 “Drainage Plans Subject to Comment by EPD”; 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 applied development from the public drainage point of view;

- (b) should the application be approved, the conditions requiring the submission of a revised 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; and
- (c) his detailed comments on the submitted drainage proposal are at **Appendix IV**.

### **Water Supplies**

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

he has no objection to the application, and his detailed comments are at **Appendix IV**.

### **Building Matters**

9.1.9 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 the approval of the Buildings Department (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 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, demolition 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 coordinator 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; and
- (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**

#### 9.1.10 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) the FSI's proposal submitted by the applicant is considered acceptable to his department. The applicant is advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS; 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**

#### 9.1.11 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

he has received one objecting comment from a Yuen Long District Council (YLDC) member of Pat Heung South Constituency upon close of consultation. He objected to the application mainly on the grounds that the ongoing extensive land excavation works at the Site will bring about flooding problem and environmental nuisance to the neighbourhood; and it is not desirable for the Board to approve an application involving a revoked planning permission.

#### 9.2 The following Government departments have no objection to/adverse comment on the application. Their comments, if any, are at **Appendix IV**:

- (a) Director of Leisure and Cultural Services (DLCS);
- (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 23.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.9.2019, a total of eight public comments was received (**Appendices IIIa to IIIh**). YLDC member of Pat Heung South Constituency, Indigenous Inhabitant Representative and Resident Representative of Shui Tsan Tin Tsuen, four Shui Tsan Tin Tsuen residents, Kadoorie Farm & Botanic



Garden Cooperation and a member of public object to/express concerns on the application mainly on the following grounds:

- (a) the applied development at the Site will bring about more visitors from outside especially during holidays, and thus adverse impact on the security of village environment is anticipated;
- (b) the local village trails leading to the Site are narrow and may not be able to accommodate additional traffic flow generated by the applied development, creating traffic safety concerns to the villagers;
- (c) the land excavation works at the Site will also bring about dust, flooding, *feng shui* problem and other environmental nuisance to the neighbourhood and natural habitat;
- (d) it is not desirable for the Board to approve an application involving a revoked planning permission; and
- (e) there is concern on whether the applicant provided sufficient and adequate information to the support the application. The applied use at the Site is actually ‘destroy-to-build’ operation where part of the Site has been excavated.

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

- 11.1 The application is for temporary place of recreation, sports or culture (hobby farm) at the Site for a period of 5 years, with filling of land at part of the Site (about 5%) by 0.2m. 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. According to the applicant, the applied development is intended to serve as an eco-education farm to enhance the public awareness about the importance of agriculture and to promote sustainable agricultural development in Hong Kong. About 80% of the Site will be unpaved area to be used for farming purpose. The applied use is generally not in conflict with the planning intention of the “AGR” zone. 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 applied development with three single-storey structures is not incompatible with the surrounding environment which is mainly occupied by active/fallow farmland and residential structures/dwellings (**Plan A-2**). According to the applicant, the estimated number of visitors would not exceed 15 and 30 per day during weekday and weekend respectively, and there will be 5 staff at the Site. There are no vehicular access, parking and loading/unloading space at the Site. C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the applied 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 conditions restricting the operation hours and prohibiting the use of public announcement system, portable

loudspeaker or any form of audio amplification system are recommended in paragraphs 12.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (f). 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 The Site is involved in one previous application (No. A/YL-SK/229) for the same applied use involving a smaller site area for a period of 3 years, which was approved with conditions by the Committee in 2017, mainly on the grounds of land use compatibility and compliance with planning intention of the “AGR” zone without technical issues. The said considerations are generally applicable to the subject application and approval of the application is in line with the previous decision of the Committee. The planning approval for the previous application was revoked on 10.2.2019 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal, and implementation of landscape proposal and FSIs proposal. It is noted that the applicant has submitted the above three proposals under this application to demonstrate commitment in fulfilling the approval conditions. In order to closely monitor the fulfilment of approval conditions, shorter compliance period is recommended for the submission and implementation of drainage proposal and FSIs proposal.
- 11.4 Regarding the local objections conveyed by DO/YL, HAD and public comments received during the statutory publication period raising objections/concerns mainly on traffic, environmental nuisance and village security aspects, the departmental comments, and planning considerations and assessment as stated in paragraphs 11.1 and 11.2 are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the the local views conveyed by DO/YL, HAD and public comments in paragraphs 9.1.11 and 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 4.10.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) no operation between 7:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or audio amplification system is allowed to be used on the Site during the planning approval period;
- (c) the submission of revised drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of

the Town Planning Board by 4.1.2020;

- (d) in relation to (c) above, the implementation of revised 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 4.4.2020;
- (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 implementation of proposal for fire service installations and water supplies for fire-fighting 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 4.4.2020;
- (g) if any of the above planning conditions (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; and
- (h) if any of the above planning conditions (c), (d) or (f) 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.

Advisory clauses

The recommended advisory clauses are 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 applied 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 attachments received on 12.8.2019
<b>Appendix Ia</b>	Further Information (FI) dated 24.9.2019
<b>Appendix II</b>	Previous Application
<b>Appendices IIIa to IIIh</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Paved Area Ratio Plan
<b>Drawing A-3</b>	Fire Service Installations Plan
<b>Drawing A-4</b>	Landscape Plan
<b>Drawing A-5</b>	Drainage 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  
OCTOBER 2019**