

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

**APPLICATION NO. A/YL-SK/285**

- Applicant** : Mr. CHU Yan-chai represented by Mr. WONG Sun-wo William
- Site** : Lot 1515 (Part) in D.D.114, Lui Kung Tin, Route Twisk, Shek Kong, Yuen Long
- Site Area** : About 2,543 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zonings** : “Conservation Area” (“CA”) (about 2,009 m<sup>2</sup> or 79%) and  
“Residential (Group D)” (“R(D)”) (about 534 m<sup>2</sup> or 21%)  
*(Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m))*
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm with Ancillary Office, Visitors’ Changing Room and Staff Carpark) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture (hobby farm) at the application site (the Site) for a period of 3 years. The Site comprises two portions separated by a local track in the middle, with the larger southern portion within the “CA” zone and the smaller northern portion within “R(D)” zone on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1** and **Drawing A-1**). Hobby farm is regarded as a ‘Place of Recreation, Sports or Culture’ which is a Column 2 use within “R(D)” zone, but it is neither a Column 1 nor a Column 2 use within “CA” zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). At present, the Site is largely vacant and vegetated, with a few containers for site office and storage use. The Site is the subject of a previously rejected application for the barbecue use.
- 1.2 According to the applicant, the southern portion (about 79%) of the Site will be occupied by four plots of farmland (of about 670 m<sup>2</sup>), two single-storey structures

(each of about 60m<sup>2</sup> and about 4.5m high) for storage of seeds/tools and toilet/visitors' changing room uses, as well as a loading/unloading bay for light goods vehicle, whereas one single-storey ancillary office (of about 60m<sup>2</sup> and about 4.5m high) and five private car parking spaces for staff are proposed at the northern portion of the Site (about 21%). The total non-domestic floor area of the said three structures is about 180 m<sup>2</sup>. The proposed operation hours will be between 9:00 a.m. and 5:00 p.m. every day (including Sundays and public holidays). The Site is accessible via a local track and Woolwich Road from Route Twisk. The layout plan with landscape plan and drainage 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 document:

Application Form with attachments received on 4.8.2020 **(Appendix I)**

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

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

- (a) The Site has been left idle for some time and is within close proximity of the country park and hiking trails. The proposed hobby farm could not only bring revenue to the landowner, but also promote the hobby farm experience to the general public.
- (b) No visitors' car parking spaces will be provided at the Site. Nevertheless, the Site is within 15-minute walking distance from the nearest minibus stop at Lui Kung Tin Village (**Plan A-1**).

## 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 notice to the current land owner. Detailed information would be deposited at the meeting for Members' inspection.

## 4. **Background**

The Site is subject to two active planning enforcement cases (Nos. E/YL-SK/215 and 216 relating to the southern and northern portion of the Site respectively) against unauthorised developments (UDs) involving filling of land at part of the Site (**Plan A-2**). Enforcement Notices (ENs) were issued on 9.2.2019 requiring discontinuation of the UD by 9.5.2019. Reinstatement Notices (RNs) were issued on 9.5.2019 requiring reinstatement of the concerned land (i.e. removing the leftovers, debris and fill materials on the land and grassing the land) by 9.8.2019. The recent site inspection revealed that the Site was not fully reinstated. Since the RNs have expired, the Planning Authority is taking prosecution action.

## 5. Previous Application

- 5.1 The Site is involved in one previous application (No. A/YL-SK/272) for proposed temporary barbecue use with ancillary site office, shroff and car park submitted by the same applicant for a period of 3 years. Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.
- 5.2 The above application was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 3.1.2020 mainly on the grounds that there were no strong planning justifications to merit a departure from the planning intention of “CA” and “R(D)” zones; the development was incompatible with the surrounding areas which were tranquil and predominantly rural in character intermixed with woodland and natural hillslope; the applicant failed to demonstrate that the development would not cause adverse environmental, traffic and landscape impacts to the surrounding area; and the approval of the application would set an undesirable precedent for other similar applications.

## 6. Similar Application

There is no approved similar application for hobby farm use within all the “CA” and “R(D)” zones 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 Plans A-4a to A-4b)

- 7.1 The Site is:
- (a) divided into the northern and southern portions by a local track;
  - (b) largely vacant and vegetated with a few containers;
  - (c) traversed by a natural stream in the south (**Plan A-2**); and
  - (d) accessible via a local track leading to Woolwich Road and eventually to Route Twisk.
- 7.2 The surrounding areas of the Site are predominantly rural in character intermixed with natural hillslope, fallow agricultural land, domestic dwellings/structures and unused/vacant land.
- (a) to its north and west are some fallow agricultural land and unused/vacant land;
  - (b) to its east is a cluster of domestic dwellings/structures of Lui Kung Tin Tsuen (**Plan A-2**) intermixed with some fallow agricultural land and unused/vacant land; and

- (c) to its south and southwest are mainly woodland, natural hillslope with scattered burial urns and graves; and Tai Lam Country Park is adjoining the southern boundary of the “CA” zone for the Site.

## **8. Planning Intentions**

- 8.1 The planning intention of the “CA” zone is primarily to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in the zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or the development is an essential infrastructure project with overriding public interest may be permitted.
- 8.2 The planning intention of the “R(D)” zone is primarily intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

## **9. Comments from Relevant Government Departments**

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
  - (a) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government; and
  - (b) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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) he has reservation on the application from traffic engineering perspective due to insufficient information, as the applicant fails to provide information on trip generation/attraction arising from the development with assessment of traffic impact to Route Twisk; and
- (b) the Site is connected to the public road network via a local access road which is not managed by his department. The land status of that local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of that 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) Woolwich Road is not maintained by HyD;
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Route Twisk; and
- (c) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads or drains.

## **Nature Conservation**

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

- (a) he trusts the Board will consider whether the proposed development would be in line with the planning intention of the “CA” zone that there is a general presumption against development in the zone. In general, with the “CA” zone, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted;
- (b) his site inspection reveals that the northern part of the Site within “R(D)” zone is a paved car park, while the southern part within “CA” zone is an abandoned field; and
- (c) landfilling and temporary structures were observed at the southern part of the Site, which may be a case of “destroy first, develop later” that should not be encouraged.

## **Environment**

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

- (a) noting that part of the Site is located within “CA” zone, the applicant is reminded that all projects including new access roads, railways, sewers, sewage treatment facilities, earthworks, dredging works and other building works partly or wholly in a conservation area is a designated project (DP) under the Environmental Impact Assessment (EIA) Ordinance, except for certain specific items (**Appendix IV**). An environmental permit (EP) is required for the construction and/or operation of a DP. There is no valid EP issued in relation to the proposed use at the Site;
- (b) the applicant is also reminded that effluent discharges from the proposed development are subject to control under the Water Pollution Control Ordinance. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site; and
- (c) there is one substantiated environmental complaint in relation to waste at the Site received by DEP in the past three years.

## **Landscape**

### 9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) he has reservation on the application from landscape planning point of view;
- (b) based on the aerial photo taken on 29.9.2019, the Site is situated in an area of landscape character comprising of natural woodland and residential structures. In view of the nature of the proposed development, the use is not in line with the planning intention of “CA” zone which is to protect and retain existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of developments;
- (c) referring to his site visit for previous application dated 26.11.2019, the northern part of the Site which falls within “R(D)” zone is vacant and paved, while the southern part of the Site within “CA” zone is vacant and covered with grasses and groundcovers. No existing tree is found within the Site. A natural stream runs through the southern part of the Site from the east to the west (**Plan A-2**). Given that there is no information relating to treatment of existing stream, potential adverse impact to the landscape resources arising from the proposed

development cannot be ascertained. Besides, the proposed development, if approved, would encourage similar application in the area and a further degradation of the landscape quality and character.

### **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. His detailed comments on the submitted drainage proposal are at **Appendix IV**; and
- (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.

### **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 buildings/structures at the Site, and BD is not in a position to offer comments on their suitability for the proposed use;
- (b) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed 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 BO;
- (d) 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 UBW under BO. The development intensity of the separate sites shall be considered separately. An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with BO;

- (e) the two sites shall be considered as two separate sites and 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 respectively;
- (f) the two sites do not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage; and
- (g) detailed comments under BO will be provided at building plans submission stage.

### **Fire Safety**

#### 9.1.9 Comment 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 comment from the locals and he has no particular comment on the application.

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

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



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

On 11.8.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 50 public comments from a Yuen Long District Council Member, Pat Heung Rural Committee, 43 local residents of Lui Kung Tin Tsuen (all in standard letter format), World Wild Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and an individual (**Appendix III**) were received. All raised objections to the application mainly on the grounds that the proposed hobby farm use is not in line with the planning intention of “CA” zone; it is incompatible with the adjacent village and rural environment; it would bring about environmental nuisance, security and hygiene issues to the villagers and the local ecology; it would induce more frequent traffic and increase the burden of the narrow, single-lane local track; and the development would set an undesirable precedent.

## 11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site for a period of 3 years. The southern portion of the Site falls within “CA” zone (about 79%) while the northern portion falls within “R(D)” zone (about 21%) on the approved Shek Kong OZP. The “CA” zone is intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in the zone. The “R(D)” zone is primarily intended for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intentions of “CA” and “R(D)” zones, even on a temporary basis.
- 11.2 Only a small part of the Site would be used for farming purpose. According to the layout of the proposed hobby farm, farming activities would concentrate in four plots of farmland (**Drawing A-1**), which are measured to be about 670m<sup>2</sup> (about 26% of the area of the Site). The remaining area would mainly be used for planting areas, ancillary office, parking and loading/unloading areas, storage, circulation spaces, etc.
- 11.3 The surrounding areas are tranquil and rural in character mainly with residential structures, agricultural land, woodland and vacant/unused land. The surrounding areas within the “CA” zone are densely vegetated (**Plan A-2**). CTP/UD&L, PlanD has reservation on the application on the consideration that the proposed development may result in potential adverse impact on the landscape resources.
- 11.4 The surrounding areas are subject to potential environmental and traffic impacts arising from the applied use. DEP states that, except for certain specific items, all projects including earthworks and other building works partly or wholly in a conservation area is a DP under EIA Ordinance requiring an EP (**Appendix IV**);

however, there is no valid EP issued in relation to the proposed use at the Site. There is a natural stream running through the southern part of the Site (**Plan A-2**). According to DEP, the applicant should comply with the requirements under the Water Pollution Control Ordinance if there is any effluent discharges from the proposed development, and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site. However, the applicant fails to demonstrate that the proposed development would not generate adverse impacts to the existing stream and other watercourses. On traffic impact, C for T has reservation on the application as the applicant fails to provide sufficient traffic-related information to demonstrate that the proposed development would not cause adverse traffic impact to the surrounding area. Other relevant departments including CE/MN of DSD and CE/C of WSD have no objection to/adverse comment on the application.

- 11.5 The Site is subject to two active planning enforcement cases against UDs involving filling of land at part of the Site. There is one previous application at the Site for proposed temporary barbecue use with ancillary site office, shroff and car park submitted by the same applicant for a period of 3 years (**Plan A-1**), which was rejected by the Committee on 3.1.2020 as stated in paragraph 5. The rejection of this application is in line with the Committee's previous decision. In addition, there is no approved similar application within all the "CA" and "R(D)" zones on the OZP. The proposed development, if approved, would set an undesirable precedent for similar applications within the "CA" zone; and encourage similar application in the area and further encroachment of development onto the "CA" zone. The cumulative impact would result in a general degradation of the landscape quality and character of the area.
- 11.6 Regarding 50 objecting public comments in paragraph 10, the departmental comments and planning considerations and assessments as 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 in paragraph 10, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intentions of the "CA" and "R(D)" zones, which are primarily to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development; and for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings respectively. There are no strong planning justifications in the submission to merit a departure from the planning intention of "CA" and "R(D)" zones, even on a temporary basis;
  - (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental, traffic and landscape impacts to the

surrounding area; and

- (c) the approval of the application would set an undesirable precedent for similar applications within the “CA” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

12.2 Alternatively, 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 18.9.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (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 vehicular access, parking and loading/unloading proposals within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 18.3.2021;
- (e) in relation to (d) above, the implementation of vehicular access, parking and loading/unloading proposals within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 18.6.2021;
- (f) the submission of trip generation and attraction to/from the Site with assessment on traffic impact to public road within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 18.3.2021;
- (g) the submission of a 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 18.3.2021;
- (h) in relation to (g) above, the implementation of drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 18.6.2021;

- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of 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 18.3.2021;
- (k) in relation to (j) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 18.6.2021;
- (l) if any of the above planning condition (a), (b), (c) or (i) 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;
- (m) if any of the above planning condition (d), (e), (f), (g), (h), (j) or (k) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (n) upon the expiry of the planning permission, the reinstatement of the “CA” portion 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**.

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

**14. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 4.8.2020
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Public Comments

<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan with Landscape Plan
<b>Drawing A-2</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>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2020**