RNTPC Paper No. A/YL-MP/282A For Consideration by the Rural and New Town Planning Committee on 2.8.2019

<u>APPLICATION FOR PERMISSION</u> UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/282

<u>Applicant</u> : Fruit Garden Social Enterprise Limited

Site : A site in D.D. 104, Ha Chuk Yuen Tsuen, Mai Po, Yuen Long

(Former Chuk Hing Public School)

Site Area : About $1,700 \text{ m}^2$

<u>Land Status</u>: Government Land (GL)

Plan : Approved Mai Po & Fairview Park Outline Zoning Plan (OZP)

No. S/YL-MP/6

Zoning : "Village Type Development" ("V")

Application : Proposed Temporary Field Study Centre and Organic Farm for a

Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the existing 1 to 2 storeys vacated school building (i.e. the former Chuk Hing Public School which has been closed since February 1997) at the application site (the Site) for proposed temporary field study centre and organic farm for a period of 3 years (**Plan A-1**). The Site falls within an area zoned "V" on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years may be allowed subject to planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The Site is the subject of 3 approved previous applications (Nos. A/YL-MP/6, 35 and 272). The last application No. A/YL-MP/272 on the same site for the same use submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) on 6.7.2018. The application was subsequently revoked on 6.4.2019 due to non-compliance with approval conditions.
- 1.3 As shown on **Plan A-2**, the Site is accessible from the southeast off Castle Peak Road Tam Mi. The layout plan and plan showing the vehicular access

are at **Drawings A-1** and **A-2** respectively. The development parameters under the current application are the same as those under the last application No. A/YL-MP/272, except that parking spaces not in the previous application are newly proposed under the current application. The major parameters are summarized as follows:

	Major Development Parameters
Applied Use	Proposed temporary field study centre and
	organic farm for a period of 3 years
Site Area	About 1,700 m ²
Total Floor Area	894.5 m ²
No. of Existing Buildings	4
Height of Buildings	3 - 6m
(No. of Storey)	(1 - 2 storeys)
No. of Parking Space	2 private car parking spaces; and
	• 2 light goods vehicle (LGV) parking spaces
Operation Hours	10:00 a.m. to 6:00 p.m. on Tuesdays to Sundays
	(use of the premises will require advanced
	booking)

- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 3.5.2019 (Appendix I)
 - (b) Supplementary information dated 7.5.2019 providing reasons for the revocation of previous application and plan showing parking spaces and site access (Appendix Ia)
 - (c) Further information (FI) dated 11.6.2019 clarifying the building height, anticipated patronage and traffic arrangement for the visitors; and providing response to the departmental comments
 - (d) FI dated 24.6.2019 providing response to the (Appendix Ic) departmental comments
 - (e) FI dated 26.7.2019 clarifying the services provided by the applicant, usage of parking spaces, and the progress of preparing proposals for compliance with conditions
- 1.5 On 21.6.2019, the Committee decided to defer decision on the application for two months as requested by the applicant pending submission of FI to address departmental comments. On 24.6.2019, the applicant submitted FI, and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the Application Form, the supplementary information and the FIs at **Appendices I, Ia, Ib and Id** respectively. They can be summarized as follows:

- (a) The applicant, Fruit Garden Social Enterprise Limited, is a charitable institution set up in 2013 to serve the New Territories West area and provides services including free wheelchair chauffeur service, family bonding and life education classes, etc.
- (b) The applicant will provide employment opportunities for the mentally and physically disabled persons and the underprivileged and employ them as their staff to help them integrate with the society.
- (c) The applicant will introduce organic hydroponic cultivation at the Site to help bring families together and allow the elderly to get a feel of modern agricultural practices. In addition, there will be services provided at the Site including classes on life education for youths, training classes for new dog owners and craft making classes for nearby villagers, etc.
- (d) There will be, in general, a maximum of 30 persons per class at the Site at a time. Any special event organized during festive occasions will have no more than 200 people. Visitors will mostly arrive on foot or by public transport. 4 parking spaces will be proposed to serve the volunteer and chauffeur who provide free wheelchair shuttle service, and provide parking space for visitors during operation hours on Saturdays and Sundays. Loading/unloading of goods will only take place during festive occasions and the vehicles involved will exit the Site after loading/unloading activity. As such, no adverse traffic impact is envisaged.
- (e) For dog training activities, they will be held indoor at Structure C twice monthly during operation hours on Saturdays and Sundays with an average of 15 dogs or less per session. No dogs will stay overnight at the Site after the training. Double glazing will be installed with windows and doors closed to minimize the noise impact.
- (f) The Site is the subject of a previous application No. A/YL-MP/272 which was revoked due to non-compliance with the approval conditions. The applicant has explained that their organization is only supported by volunteers. There is miscommunication amongst the staff due to the lack of experience of the organization in handling compliance with approval conditions of the planning permission. In fact, they have made submission for compliance with 3 conditions but only 1 of them in relation to the submission of tree preservation proposal was complied with. In view of that, they committed to appoint a dedicated volunteer to facilitate the planning application and ensure compliance with the approval conditions. Taking into account the comments of relevant Government departments, the applicant is preparing the condition records of the existing drainage facilities and water supplies for firefighting and fire service installations (FSIs) proposal. While the preparation work is close to completion, they will be

submitted in August 2019 for compliance with the approval conditions should the application be approved by the Board.

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

The Site involves GL only. As such, the "Owner's Consent/Notification" Requirements as set out in "Town Planning Board Guidelines on Satisfying the 'Owner's Consent/Notification' Requirements under Section 12A and 16 of the Town Planning Ordinance" (TPB PG-No. 31A) are not applicable to the application.

4. Town Planning Board Guidelines

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

- 5.1 The Site is not subject to any active enforcement action.
- 5.2 The Site is one of the vacant school premises available for application (to District Lands Office) by non-governmental organisations for rent of the premises for community, institutional or non-profit making purposes on short term basis.

6. Previous Applications

- 6.1 The Site is the subject of 3 previous applications (No. A/YL-MP/6, 35 and 272) which were all approved.
- Application No. A/YL-MP/6 on a larger site for recreation centre submitted by a different applicant was approved with conditions by the Board on review on 2.8.1996 on a temporary basis for a period of 5 years. Approval of the application was mainly on the consideration that the application would make use of existing structures, which would otherwise remain vacant and unattended, and for the benefit of the local community. The planning permission lapsed on 2.8.2001.

- Application No. A/YL-MP/35 on a larger site for school of professional training and development of church leaders and pastors submitted by a different applicant was approved with conditions by the Committee on 13.11.1998 mainly on the consideration that the proposed development was compatible with the surrounding area, relevant Government departments have no objection to or adverse comment on the application and the school premises left abandoned for a period of time are sub-standard and could be considered for other uses. Application for occupation of GL by the applicant was rejected by DLO/YL, LandsD on the grounds that local objections could not be addressed. The planning permission lapsed on 13.11.2001.
- 6.4 Application No. A/YL-MP/272 for the same use, i.e. proposed temporary field study centre and organic farm, on the same site submitted by the current applicant, was approved with conditions by the Committee on 6.7.2018 for a period of 3 years on similar consideration as for application No. A/YL-MP/35 as detailed in paragraph 6.3 above. An approval condition in relation to the submission of tree preservation proposal was complied with. Nevertheless, the application was subsequently revoked on 6.4.2019 due to non-compliance with the approval conditions in relation to the submission of condition records of the existing drainage facilities, submission and provision of water supplies for firefighting and FSIs proposal, and the implementation of the tree preservation proposal by the same date.
- 6.5 Details of the applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

7. Similar Application

There is no similar application in the same "V" zone.

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

- 8.1 The Site is:
 - (a) occupied by the former Chuk Hing Public school which has been closed and remained vacant since February 1997. The 4 existing school buildings of 1 to 2 storeys on-site are currently vacant;
 - (b) located near Ha Chuk Yuen Tsuen of San Tin Heung;
 - (c) accessible from a local track at the southeast connecting to Castle Peak Road Tam Mi; and
 - (d) located within the WBA of Deep Bay.
- 8.2 The Site is located in a village settlement and the surrounding areas are mainly residential in character. There are also some vehicle parking, storage yards and vehicle workshops which are suspected unauthorised developments (UD) subject to enforcement by the Planning Authority:

- (a) to the north and west are a residential care home (under approved Application No. A/YL-MP/214), a vehicle park and some vacant land. Further north across Ha Chuk Yuen Road are vacant land and fallow agricultural land;
- (b) to the east are a vehicle park, storage yards, vehicle workshop, vehicle repair workshop, an elderly home and residential dwellings; and
- (c) to the south are residential dwellings, a shrine, a latrine and some unused land.

9. Planning Intention

The planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Policy Support

10.1.1 Comments of the Secretary for Development (SDEV):

Noting that the applicant proposed to utilize the vacant premises to take forward a variety of community activities (e.g. organic farming, training activities for dog keepers, community engagement for people with disability or the underprivileged, green living and education, etc.), which is consistent with Government's policy to make gainful use of our scarce land resources, the application is supported.

Land Administration

- 10.1.2 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site falls within unleased and unallocated GL at Mai Po. Should the planning application be approved and the applicant submits an application for short term tenancy (STT) for

implementing the proposed temporary field study centre, there is no guarantee that the STT application will be approved. Policy support from relevant bureau is a prerequisite for application of direct grant STT. Such application, if approved by LandsD acting in the capacity as the landlord at his discretion, would be subject to such terms and conditions including, among others, the payment of rental and administrative fee as may be imposed.

- (b) It is noted that 2 private car parking spaces and 2 LGV parking spaces are proposed in the scheme. Given the Site is accessible to Castle Peak Road Tam Mi through GL and private land, vehicular access to the Site could not be secured over concerned private lands in the proposed STT in future.
- (c) The Site falls within Village Environ boundary of Ha Chuk Yuen. There is no Small House application received/being processed at the Site.

Traffic

- 10.1.3 Comments of the Commissioner for Transport (C for T):
 - (a) The Site is connected to the public road network via a section of local access which is not managed by Transport Department. The land status of the local access road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
 - (b) Should the application be approved, the following condition should be incorporated:
 - No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.
- 10.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
 - (a) Adequate drainage measures should be provided to prevent surface water flowing from the Site to the nearby public roads and drains.
 - (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road Tam Mi. Presumably, the relevant department will provide their comments, if any.

Environment

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

The applicant stated in the FI that, if dog training activities are organized, the dogs will not stay overnight; the dogs will stay inside the building; the number of dogs is limited to fifteen for each activity; and the activities will be organized in daytime only. Based on the above, he has no adverse comment on the application.

Nature Conservation

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

He has no adverse comment on the application from nature conservation point of view as the Site is a former school site and is at considerable distance from WCA. Nevertheless, should the application be approved, the applicant should ensure that the proposed development will not affect the existing trees on site.

Landscape

- 10.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) According to the aerial photo taken in 2018, there was existing school building within the Site. The surrounding area of the Site is comprised of village houses, temporary structures, car parks and scattered tree groups. The proposed use is considered not incompatible with the existing landscape setting in proximity.
 - (b) According to the site visit conducted on 21.5.2019, a number of mature trees in fair to good conditions were found within the Site. As observed from the layout plan, existing trees will not be in direct conflict with the proposed use. As further significant adverse landscape impact arising from the proposed development is not anticipated, he has no objection to the application from landscape planning perspective.
 - (c) In view that the Site does not fall within landscape sensitive areas and the proposed development is unlikely to cause adverse visual and landscape impacts, it is opined that landscape condition is not recommended, should the application be approved by the Board.

Drainage

- 10.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) On the basis of information provided, the proposed development would mainly involve proposed usage inside the existing premises and the intended functions of the existing

drainage facilities would not be affected. Therefore, he has no comment on the application from public drainage point of view. The applicant is requested to maintain the existing drainage facilities on-site.

(b) Should the application be approved by the Board, he would suggest including the following condition in planning approval:

Submission of records of the existing drainage facilities on Site to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

- 10.1.9 Comments of the Director of Fire Services (D of FS):
 - (a) He has no objection in principle to the application subject to 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 D of FS for approval. The applicant should also be advised on the following points:
 - the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
 and
 - (ii) the location of where the proposed FSIs 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 Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

If the proposed involves any commercial/trading activities, its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

His office has no comment on the application and the local comments should be submitted to the Board directly, if any.

- 10.2 The following government departments have no objection to or no comment on the application:
 - (a) Commissioner of Police (C of P);
 - (b) Director of Leisure and Cultural Services (DLCS);
 - (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
 - (d) Director of Electrical and Mechanical Services (DEMS);
 - (e) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD);
 - (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (g) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
 - (h) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comments Received During Statutory Publication Period

On 10.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 31.5.2019, three objecting public comments were received from the village representative of Chuk Yuen Tsuen and members of the public raising concerns that the development would bring inconvenience to the nearby residents, adversely affect the rural environment, cause safety issue and aggravate flooding risk; more information should be provided on the application; and the approval should not be granted for application as the applicant had failed to comply with approval conditions of the previous planning permission (**Appendix III**).

12. Planning Considerations and Assessments

12.1 The applicant proposes to use the existing school buildings at the Site for the proposed temporary field study centre and organic farm for a period of 3 years. The Site is currently occupied by the vacated school premises of the

former Chuk Hing Public School which has been closed and left vacant since February 1997.

- The Site falls within "V" zone which is primarily to reflect existing 12.2 recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. While the proposed use is not entirely in line with the planning intention of the "V" zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the "V" zone as there is no immediate development proposal for the Site. According to DLO/YL, LandsD's record, there is no Small House application received/currently under processing at the Site. Moreover, SDEV has given policy support to the application noting that the applicant proposes to utilize the vacant premises to take forward a variety of community activities, which is consistent with Government's policy to make gainful use of scarce land resources.
- 12.3 The proposed temporary field study centre and organic farm is accommodated within the existing vacated school buildings and is not incompatible with the land uses of the surrounding areas, which are mainly occupied by a mix of residential dwellings, elderly homes, agricultural land, vacant land and scattered vehicle parks and workshops.
- 12.4 The Site falls within the WBA of the TPB PG-No. 12C. DAFC has no comment on the application from nature conservation point of view considering that the Site is a former school site, and is located at considerable distance from WCA.
- 12.5 As the use of the vacant school buildings do not involve any building, site formation, land filling, excavation works nor felling of trees, it would unlikely cause adverse environmental impacts on the surrounding areas. Significant adverse drainage and traffic impacts on the surrounding area are not expected. Concerned Government departments including DEP, C for T, D of FS, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to the proposed use on environmental, traffic, fire safety, drainage and landscape aspects respectively. Their technical requirement could be addressed by approval conditions as recommended in paragraph 13.2 (c), (e) to (g) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and requiring the maintenance of drainage facilities on-site are recommended in paragraphs 13.2 (a), (b) and (d) below. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority.

- 12.6 As stated in paragraph 6 above, the Site is the subject of 3 approved previous planning permissions which are similar in nature (i.e. for education and community activities) as the current application. Approval of the current application is in line with the previous decisions of the Committee. The last application No. A/YL-MP/272 was approved on 6.7.2018 and revoked on 6.4.2019 due to non-compliance with approval conditions as detailed in paragraph 6.4 above. The applicant states that it was due mainly to their inexperience in handling compliance conditions and has committed to have a dedicated volunteer to handle compliance with the approval conditions. According to the applicant, they are preparing the condition records of the existing drainage facilities and water supplies for firefighting and FSIs proposal for submission in August 2019 should the application be approved by the Board. In view that CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no objection in principle to the application, it is considered that the subject application may be given sympathetic consideration. Shorter compliance period for closely monitoring of the progress on compliance with the approval conditions are recommended, should the application be approved. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.7 Three objecting public comments were received during the statutory public period raising concerns on environmental, safety and drainage aspects. The planning considerations and the departmental comments above are of relevance.

13. Planning Department's Views

- Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary field study centre and organic farm <u>could be tolerated</u> for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 2.8.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Mondays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;

- (d) the maintenance of the existing drainage facilities on the Site at all times during the planning approval period;
- (e) the submission of records of the existing drainage facilities on the Site 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 2.11.2019;
- (f) the submission of water supplies for firefighting and fire service installations proposal within 3 months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 2.11.2019;
- (g) in relation to (f) above, the provision of water supplies for firefighting and fire service installations within **6** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by <u>2.2.2020</u>;
- (h) if any of the above planning conditions (a), (b), (c) or (d) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (e), (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.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The proposed use is not in line with the planning intention of the "V" zone which is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

14. <u>Decision Sought</u>

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.

14.3 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.

15. Attachments

Appendix I Application form received on 3.5.2019

Appendix Ia Supplementary information dated 7.5.2019

Appendix Ib Further information dated 11.6.2019

Appendix Ic Further information dated 24.6.2019

Appendix Id Further information dated 26.7.2019

Appendix II Previous s.16 applications covering the application site

Appendix III Public comments received during statutory publication

period

Appendix IV Recommended Advisory Clauses

Drawing A-1 Layout Plan

Drawing A-2 Plan showing vehicular access

Plan A-1 Location Plan

Plan A-2 Site Plan

Plan A-3 Aerial Photo

Plans A-4a to 4b Site Photos

PLANNING DEPARTMENT AUGUST 2019