

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/294

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| <u>Applicant</u> | Mr. WONG Kin Wai represented by R-riches Property Consultants Limited |
| <u>Site</u> | Lots 286 RP and 287 RP in D.D. 112, Shek Kong, Yuen Long |
| <u>Site Area</u> | About 1,075m ² |
| <u>Lease</u> | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9 |
| <u>Zoning</u> | “Agriculture” (“AGR”) |
| <u>Application</u> | 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 the land which is required for the proposed structures and circulation purposes (**Drawing A-2**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within “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 vacant and partly covered with grass.
- 1.2 According to the applicant, the proposed development consists of two single-storey structures of about 4.2m high with a total floor area of about 108 m². These two structures will be used as reception, refreshment kiosk, washroom and changing room, plant nursery, meter room, storage of farm tools and agricultural learning room (**Drawing A-1**). About 170 m² (about 16%) of the Site is proposed to be filled up by concrete by 0.2m (from 24.3mPD to 24.5mPD) for the said structures and by 0.1m (from 24.3mPD to 24.4mPD) for the circulation space respectively, whereas the remaining part of the Site of about 905m² (about 84%) will be unpaved and occupied by farmland (790m² or about 73%), landscaping area (65m² or about 6%), and footpath (50m² or about 5%) (**Drawing A-2**). According to the applicant, the operation hours are from 9:00am to 6:00pm daily.

No vehicular access, parking and loading/unloading space will be provided on site. The Site is directly accessible from Kam Sheung Road. The layout plan and paving ratio plan 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 (Appendix I)
received on 13.11.2020
- (b) Further information (FI) received on 30.12.2020 (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 summarised as follows:

- (a) in view of the growing demand for recreational farming, the proposed hobby farm at the Site is intended to promote sustainable and organic farming in Shek Kong by serving the surrounding locals;
- (b) the proposed use is considered not incompatible with the surrounding land use and adverse environmental impact is not anticipated. Since the Site has been abandoned for years, the proposed use could optimise the development potential of land within the “AGR” zone;
- (c) the estimated maximum number of visitors per day would be about 20 and 40 on weekdays and weekends respectively. There would be around 5 staff for maintaining the operation of the proposed hobby farm. Visitors are required to make appointments in advance to access the Site. Goods for daily operation will be transported by trolley or hand carried by staff, and both the visitors and staff are required to travel to the Site by public transport along Kam Sheung Road. No adverse traffic impact is thus envisaged; and
- (d) only about 16% of the Site (about 170m²) will be filled up by not more than 0.2m and hard-paved for the proposed structures and circulation spaces. The rest of the Site will be unpaved for farmland, landscaping area and footpath on soiled ground. The applicant will reinstate the Site 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 Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (the 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**

The Site is not subject to any active planning enforcement action.

5. **Previous Application**

There is no previous application in respect of the Site.

6. **Similar Applications**

6.1 There are three similar applications (No. A/YL-SK/235, 241 and 244) for proposed temporary place of recreation, sports or culture (hobby farm) use for a period of 3 years within the same “AGR” zone on the OZP, which were all approved by the Rural and New Town Planning Committee (the Committee) in 2018. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 The above three applications for temporary hobby farm use for a period of 3 years (not involving filling of land) were approved with conditions by the Committee on 4.5.2018, 21.12.2018 and 7.12.2018 respectively on the similar considerations that the development was generally not in conflict with the planning intention of the “AGR” zone and would not jeopardise its long-term planning intention; it was not incompatible with the surrounding environment; relevant Government departments consulted had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval of application No. A/YL-SK/235 was revoked on 4.8.2020 due to non-compliance with approval conditions in relation to the submission and implementation of tree preservation and landscape proposal, as well as implementation of drainage proposal and fire service installations (FSIs) proposal.

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) currently vacant and partly covered by grass; and
- (b) directly accessible from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character mainly occupied by active/fallow farmland, open storage sites, domestic structures and vacant/unused land (**Plan A-2**):

- (a) to its north are active/fallow farmland and a plant nursery while to its northwest are a few domestic structures and an open storage site;

- (b) to its immediate south is Kam Sheung Road, and to its further south and southwest off Kam Sheung Road are a plant nursery, a real estate agency and a few open storage sites within the “Residential (Group D)” (“R(D)”) zone;
- (c) to its west are a real estate agency, a warehouse, an open storage site as well as several pieces of vacant land; and
- (d) to its east and southeast are some active and fallow farmland within the “Village Type Development” (“V”) 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 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 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) the Site is covered by the Letter of Approval No. MT/LM 16076 permitted for agricultural use; and
 - (c) should the 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 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):

having regard to the FI (**Appendix Ia**), he has no comment on the application considering that there is no parking provision or 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 and Kam Sheung Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to the 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 the “AGR” zone and possesses potential for agricultural rehabilitation. He has no strong view on 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 that the Site has been left vacant, he has no adverse comments 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 18.2.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmland. The proposed use is considered not incompatible to the surrounding environment;

- (c) referring to his site inspection on 24.11.2020, the Site is vacant with self-seeded grasses. One existing tree of *Cinnamomum burmanii* (陰香) (**Plans A-2 and A-4**) in fair condition is found at the western boundary. Referring to the Planning Statement (**Appendix I**), the applicant will preserve existing tree within the Site as far as practical. Significant adverse impact on landscape resources arising from the proposed development within the Site 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 minimise 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 IV**; 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) for unauthorised building works (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 Buildings Ordinance (BO); and
- (b) before any new building works (including containers / open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator 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, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans; 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) Director of Electrical and Mechanical Service (DEMS); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 20.11.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 14 public comments (**Appendix III**) were received from 11 Sheung Tsuen villagers (all in standard letter format), The Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual. All object to the application mainly on the grounds that the application is not in line with the planning intention of the “AGR” zone; the proposed development is not compatible with the surrounding environment; the Site has been cleared before the application is submitted; it would increase the chance of traffic accidents at Kam Sheung Road; and the development is for profit-making.

11. Planning Considerations and Assessment

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site zoned “AGR” for a period of 5 years, with filling of land at a small part of the Site (about 16%) by not more than 0.2m (**Drawing A-2**). 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 proposed development is intended to promote sustainable and organic farming in Shek Kong. The proposed use is generally not in conflict with the planning intention of the “AGR” zone, and the majority of the Site (about 84%) will not involve filling of land and remain unpaved for farmland, landscaping and footpath uses. DAFC has no strong view on the application from agricultural perspective. 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 two single-storey structures with a total floor area of 108m² is not incompatible with the surrounding environment which is mainly occupied by active/fallow farmland and domestic structures (**Plan A-2**). According to the applicant, the estimated number of visitors per day would be about 20 and 40 during weekdays and weekends respectively, and there will be around 5 staff working at the Site. No parking and loading/unloading space would 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, an approval condition restricting the operation hours are recommended in paragraph 12.2 (a) below. The technical requirements of CE/MN of DSD and D of FS could be addressed

by approval conditions in paragraphs 12.2 (b) 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 There are three similar applications for temporary hobby farm use within the same “AGR” zone which were approved by the Committee in 2018. The Committee’s considerations on these applications as stated in paragraph 6 are generally applicable to the current application and approval of this application is in line with the previous decisions of the Committee.
- 11.4 Regarding the 14 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 8.1.2026. 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) 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 8.7.2021;
- (c) in relation to (b) 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 8.10.2021;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 8.7.2021;
- (f) in relation to (e) 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 8.10.2021;

- (g) if any of the above planning condition (a) or (d) 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;
- (h) if any of the above planning condition (b), (c), (e) 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; and
- (i) 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 IV**.

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

the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. 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

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| Appendix I | Application Form with Planning Statement received on 13.11.2020 |
| Appendix Ia | Further information (FI) received on 30.12.2020 |
| Appendix II | Similar Applications |
| Appendix III | Public Comments |
| Appendix IV | Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Drawing A-2 | Paving Ratio Plan |

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| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |

**PLANNING DEPARTMENT
JANUARY 2021**