

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/193

- Applicant** : Mr. CHENG Yee Yan represented by Mr. KWOK Chi Man
- Site** : Lots 565 (Part), 567 (Part) and 568 (Part) in D.D. 89 and Adjoining Government Land, Sha Ling, Sheung Shui, New Territories
- Site Area** : About 3,500 m² (including about 500 m² of Government land)
- Land Leases** : (i) Block Government lease (demised for agricultural use) (about 73.4% of the Site)
(ii) Building Licence No. 824/55 for house use at Lot 565 (Part) in D.D. 89 (about 12.3% of the Site)
(iii) Government land (about 14.3% of the Site)
- Plan** : Approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

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 three years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Fu Tei Au and Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/16. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use in “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently largely vacant.
- 1.2 According to the submission, about 2,230 m² (about 64%) of the Site at the central and western parts will be used as cultivation/ farm area and the remaining area mainly in the north and east will be used for site office, car park and manoeuvring space (**Drawing A-1**). The cultivation area of about 2,000 m² would have 41 patches of farmland in total, with 13 larger (each of about 100 m²) and 28 smaller (each of about 25 m²) farming areas for growing vegetables. Two 1-storey temporary structures with a total floor area of about 460 m² and building height of about 7 m (including 3 m high metal frame supporting the temporary structures below to avoid flooding risk) will be erected on Site. These structures each with a floor area of 230 m² would be used for site office/ reception/ rain

shelter and store room for visitors/ farm tools respectively (**Drawing A-1**). Four staff private car parking spaces (measuring 5 m x 2.5 m each) will be provided at the northern part of the Site. There would be no visitor parking on Site. The Site is accessible via a local road leading to Man Kam To Road with the entrance located at the northeastern boundary of the Site (**Drawing A-1**).

- 1.3 The proposed operation hours are from 10:00 a.m. to 5:00 p.m. daily including public holidays. The proposed hobby farm will be for its members by appointment only. The agricultural products would only be for members' own consumption purpose. The estimated number of visitors during weekdays and weekends are no more than 20 and 60 per hour respectively. There will be around 3 to 6 staff working at the Site. Visitors are required to pay entrance fee to use the facilities in the proposed development. No public announcement system and loud speaker would be used at site. The site layout plan submitted by the applicant is at **Drawing A-1**. The Site is currently largely vacant and partly covered vegetation.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 1.11.2019 (**Appendix I**)
 - (b) Further Information received on 28.11.2019 (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary information attached to the Application Form and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the Site is currently vacant and partly covered with vegetation. No site formation works including filling or excavation of land would be involved. The proposed development is temporary in nature and would not jeopardize the planning intention of "AGR" zone;
- (b) the Site is accessible via Man Kam To Road. Four staff parking spaces for private cars will be provided at the Site. Visitors would have to arrive at the hobby farm by public transport and hence no adverse traffic impact on surrounding area is anticipated;
- (c) no public announcement system or loud speaker will be installed at the Site to minimise the impact of noise on the surrounding area; and
- (d) to avoid pollution to the natural stream, no pesticide will be used in the proposed hobby farm while portable toilets are proposed and sewerage will be collected regularly.

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 (TPB PG-No. 31A) by taking reasonable steps to obtain the consent of or give notification to the owner including sending a notice to the Sheung Shui District Rural Committee and posting site notice. For the adjoining Government land, TPB PG-No.31A is not applicable to the application. Detailed

information would be deposited at the meeting for Members' inspection.

4. Background

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advises that the Site is not subject to any active enforcement case.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

There is no similar application for temporary hobby farm use in the vicinity of the Site under the same "AGR" zone in the Fu Tei Au and Sha Ling area.

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) mostly hard paved and partly covered vegetation;
- (b) largely vacant with a vacant converted container at the southeastern corner of the Site (**Plan A-4**); and
- (c) accessible via a local road leading to Man Kam To Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its northeast, east and southeast are mostly temporary domestic structures (**Plan A-2**); and
- (b) to its immediate northwest, west and southwest are largely vacant land with scattered temporary domestic structures.

8. Planning Intention

The planning intention of the "AGR" zone in Fu Tei Au and Sha Ling area is to primarily 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 summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots and adjoining Government land (GL). The private lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. Apart from agricultural use, part of Lot 565 in D.D. 89 is covered by a building licence (BL 824/55) for house purpose;
- (b) there is no guarantee that any adjoining GL will be allowed for the vehicular access of the proposed use. The applicant should make its own arrangement for acquiring access;
- (c) the occupation boundary and the application boundary do not tally;
- (d) the Site includes GL adjacent to the application lots. An entrance gate and some hoardings were erected on the GL concerned (**Plans A-2 and A-4**). The applicant should immediately stop occupying the GL concerned and remove all the aforesaid illegal structures at his own cost. His Office reserves the right to take land control actions against the irregularities; and
- (e) should the application be approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The application for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Agriculture and Nature Conservation

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

- (a) the Site falls within "AGR" zone and possesses potential for agricultural rehabilitation. Taking into account the proposed agricultural activities provided in the FI (**Appendix Ia**), she has no strong view against the application from agriculture point of view; and
- (b) should there be any pavement proposed on Site, reinstatement of the Site upon the expiry of the planning permission is recommended.

Traffic

- 9.1.3 Comments of the Commissioner for Transport (C for T):
- (a) it is noted that the proposed vehicular access to the Site is via a local track connecting with Man Kam To Road (**Plan A-2**). Based on the traffic information provided by the applicant, he considers that the application is tolerable from traffic engineering point of view on a 3-year temporary basis; and
 - (b) the applicant should be reminded that the local track leading to the Site is not managed by TD. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly.
- 9.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):
- (a) he has no adverse comment on the application; and
 - (b) the proposed vehicular access leading from Man Kam To Road (**Plan A-2**) to the Site is not under HyD's maintenance purview.

Environment

- 9.1.5 Comments of the Director of Environmental Protection (DEP):
- (a) he has no objection to the application;
 - (b) as the application is temporary in nature, the applicant is advised to follow EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)";
 - (c) according to the FI submission (**Appendix Ia**), it is noted that two mobile toilets with sump tank would be set up. Sewage would be collected, and the mobile toilets would be replaced, by the contractor regularly (i.e. every 14 days). In view of the proposed arrangement, he has no adverse comment on the application and FI from water quality perspective;
 - (d) in view of the nearby watercourse/nullah (**Plan A-2**), the applicant is advised to strictly observe all relevant pollution control ordinances, particularly on waste management and disposal and water pollution, follow relevant measures given in the EPD's latest CoP, and put in place necessary precautionary/ pollution control measures to prevent any pollution of the watercourse/ nullah as a result of the operational and construction activities. It is noted that pesticide would not be used on Site. Best management practice should be adopted to avoid refuse and other pollution from entering the surface runoff and the watercourse/ nullah; and
 - (e) the applicant should be reminded that should there any other wastewater arising from the operation of the proposed development, the applicant shall

have to provide his own effective wastewater treatment and disposal measures as there is no existing public sewer in the vicinity of the Site. If septic tank and soakaway (STS) system is proposed, its design and construction should follow the requirement of ProPECC PN 5/93. The Percolation Test and Minimum Clearance requirements stated in ProPECC PN 5/93 should be fully complied with and duly certified by consulting engineer/ Authorized Person (AP). There is no environmental complaints against the Site 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) she has no objection to the application from the landscape planning perspective;
- (b) based on aerial photo of 2019, the Site is situated in an area of rural landscape character surrounded by temporary structures and clusters of trees. The proposed use is considered not incompatible with the surrounding environment. No significant landscape resource is observed within the Site; hence, significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) it is noted that there is no major public frontage along the site boundary, should the application be approved, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD)

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition to request the applicant to submit and implement a drainage proposal for the Site is recommended to ensure that the proposed development will not cause adverse drainage impact to the adjacent area. His advisory comments are at **Appendix III**; and
- (c) the Site is in an area where no public sewerage connection is available.

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 he is not in a position to offer comments

- on their suitability for the proposed use;
- (b) there is also no record of submission of the proposed building/ structure to the BA for approval; and
 - (c) his other advisory comments are at **Appendix III**.

Fire Safety

9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department;
- (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. In addition, the applicant should be also advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and 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 Buildings Ordinance (Cap. 123), 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 (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee, the North District Council (NDC) member (2016-2019) and the NDC member (2020-2023) of subject constituency, the Resident Representative (RR) and Indigenous Inhabitant Representative (IIR) of San Uk Ling had no comment on the application; and
- (b) the Chairman of 打鼓嶺沙嶺村居民福利會 had not replied to the consultation.

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

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

10. Public Comments Received During Statutory Publication Period

10.1 On 8.11.2019, the application was published for public inspection. During the statutory public inspection period, 22 public comments were received (**Appendix II**):

- (a) the Chairman of Sheung Shui District Rural Committee and the incumbent North District Council member indicate no comment on the application;
- (b) the Hong Kong Bird Watching Society, Designing Hong Kong Limited, a villager of the Sha Ling Village and 15 individuals object to the application mainly on the grounds that the proposed development would degrade the agricultural environment; it is not a genuine application for hobby farm but a car park for making profit; it is a ‘destroy first, build later’ case; the proposed development would have adverse traffic, drainage and environmental impacts to the neighbourhood and pose safety risk to the nearby villagers; and promotion of undesirable recreational uses within “AGR” use; and
- (c) the Kadoorie Farm and Botanic Garden Corporation and World Wide Fund for Nature Hong Kong express concern if the Site is suitable for farming activities for crop production; and urge that investigation on the site history and land status should be carried out before making a decision on the application.

11. Planning Considerations and Assessments

11.1 The proposed hobby farm for a period of 3 years falls entirely within an area zoned “AGR” on the OZP (**Plan A-1**). According to the submission, about 2,300 m² (about 64%) of the Site will be reserved for cultivation and farm area. The remaining area which is about 1,200 m² (about 36% of the Site) will be used for site office, car park and manoeuvring space (**Drawing A-1**). The proposed development is considered generally in line with the planning intention of “AGR” zone which is primarily 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. DAFC has no strong view against the application from agriculture point of view. The approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.

11.2 The Site is situated in an area of rural landscape character surrounded by temporary structures and clusters of trees. The proposed development is considered not incompatible with the surrounding land uses. No significant landscape resource is observed within the Site and significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. In this regard, CTP/UD&L of PlanD has no objection on the application from landscape planning point of view.

11.3 The Site is accessible via a local road leading to Man Kam To Road (**Plan A-2**). Having reviewed the traffic information submitted by the applicant, C for T considers that the proposed development is tolerable from traffic engineering point of view on a 3-year temporary basis. DEP has no objection to the application, and the applicant should be reminded to adopt the environmental mitigation measures and requirements as set out in ProPECC PN5/93, the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” and all relevant environmental protection/

pollution control ordinances. Other relevant Government departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on / no objection to the application.

11.4 Regarding the local objection conveyed from DO(N) of HAD and adverse public comments as mentioned in paragraphs 9.1.10 and 10 above, the relevant Government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account local comments conveyed by DO(N) of HAD and the public comments in paragraph 9.1.10 and 10 above, the Planning Department has no objection to the application for a period of 3 years.

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 3 years until **13.12.2022**. 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 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system and loud speaker, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (c) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.6.2020;
- (d) in relation to (c) above, the provision of drainage facilities 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 13.9.2020;
- (e) the submission of proposals for fire service installations and water supplies for firefighting 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 13.6.2020;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 13.9.2020;
- (g) if planning conditions (a) or (b) 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;

- (h) if any of the above planning conditions (c), (d), (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 Director of Planning or of the Town Planning Board.

Advisory Clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:

- (a) 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) the approval of the application would set an undesirable precedent for other similar applications within the "AGR" zone. The cumulative impact of approving such applications would result in a general degradation of the environment of the area.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 applicants.

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

Appendix I	Application Form with Attachments received on 1.11.2019
Appendix Ia	Further Information received on 28.11.2019
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4

Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**