

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

**APPLICATION NO. A/NE-LK/123**

<b><u>Applicant</u></b>	: Yau Yuen Logistics Company Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 1291 S.B RP in D.D. 39, Sha Tau Kok Road, New Territories
<b><u>Site Area</u></b>	: About 501 m <sup>2</sup>
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: 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 Luk Keng and Wo Hang OZP No. S/NE-LK/11. 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 vacant.
- 1.2 According to the applicant, the proposed hobby farm comprises a farming area, a temporary structure for storage of farm tools and toilet use (**Drawing A-1**). About 70% of the Site would be used as cultivation area and the Site would not be hard paved. The ingress / egress of the Site is about 6m wide and located at the northwestern portion of the Site leading to Sha Tau Kok Road (**Plan A-2**). One private car parking space (measuring 5 m x 2.5 m) serving the proposed development will be provided.
- 1.3 The proposed operation hours are from 9:00 a.m. to 5:00 p.m. from Mondays to Sundays, including public holidays. The estimated number of visitors would not exceed 8 persons a day. No public announcement system and loud speaker would be used at Site. The site layout plan, landscape plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

- (a) Application form with attachments received by the Board on 11.10.2019 (**Appendix I**)
- (b) Letter dated 11.11.2019 requesting for 1st deferment of consideration of the application (**Appendix Ia**)
- (c) Further Information received on 21.1.2020 (exempted from publication) (**Appendix Ib**)
- (d) Further Information received on 2.3.2020 (exempted from publication) (**Appendix Ic**)
- (e) Further Information received on 3.3.2020 (exempted from publication) (**Appendix Id**)
- (f) Further Information received on 4.3.2020 (exempted from publication) (**Appendix Ie**)

1.5 At the request of the applicant (**Appendix Ia**), the Committee agreed on 29.11.2019 to defer making a decision on the application for two months pending the preparation of further information to address the departmental comments. The applicant submitted the further information (**Appendix Ib**) on 21.1.2020 and the application is re-scheduled for consideration by the Committee on 20.3.2020.

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement (**Appendix I**). They can be summarized as follows:

- (a) the proposed temporary hobby farm under application is a Column 2 use under the “AGR” zone. It tallies with the planning intention of the “AGR” zone and such interim conversion for hobby farm would encourage agricultural rehabilitation for the Site;
- (b) the objectives of the proposed temporary hobby farm are to cultivate the interest and knowledge of the participants in organic farming and also to provide an opportunity for the participant to experience the organic farming;
- (c) the proposed development would optimize and revitalize the use of the Site;
- (d) the proposed development is compatible with the surrounding land uses;
- (e) vehicular trips generated by the proposed development will be minimal and there would be no vehicle trips at peak hours (i.e. morning peak from 7:00am to 9:00am and afternoon peak from 5:00pm to 7:00pm). To ensure pedestrian safety, a traffic sign would be provided at the entrance of the Site. Also, advance booking is required to visit the Site;
- (f) no public announcement system would be used at the Site;
- (g) the proposal will not involve hard paving of land within the Site; and
- (h) the proposed development would not cause significant impact on environmental, traffic, visual, landscape and drainage aspects and relevant mitigation measures are proposed. Septic tank and soakaway system will be used and the applicant will follow the

requirements of EPD's Practice Note for Profession Person (PRoPECC) PN 5/93 "Drainage Plan subject to comment by the Environmental Protection Department".

**3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

**4. Background**

According to the Chief Town Planner/ Central Enforcement and Prosecution, Planning Department, the Site is not involved in any of the active enforcement cases.

**5. Previous Application**

There is no previous application for the Site.

**6. Similar Application**

There is no similar application within/partly within the "AGR" zone in the vicinity of the Site in the Luk Keng and Wo Hang area.

**7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and aerial photo on Plan A-3 and site photos on Plan A-4)**

7.1 The Site is:

- (a) fenced off, vacant and covered with grass; and
- (b) accessible from Sha Tau Kok Road (Plan A-2).

7.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by active/fallow agricultural land, open storage use, scattered temporary domestic structures and vacant land;
- (b) to the immediate west and east are active agricultural land and to the further west are open storage and parking of vehicles;
- (c) to the north is Sha Tau Kok Road and across which are some fallow agricultural land and open storage site; and
- (d) to the south-east are some temporary domestic structures, active/fallow agricultural land and vacant land.

## 8. Planning Intention

The planning intention of the “AGR” zone 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 Office/North, Lands Department (DLO/N, LandsD):

- (a) the lot is an Old Schedule lot held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access. The applicant should make their own arrangement for acquiring access and the Government shall accept no responsibility in such arrangement and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) the existing structures on the Site were erected without approval from her office. The aforesaid structures are not acceptable under the Leases concerned. Her office reserves the right to take enforcement actions against the aforesaid structures;
- (c) the proposed structure to be erected on the Site will include a toilet. The applicant should note that any proposed septic tank and soakage pit system should meet current health requirements, and that it should apply for certificates for building works and drainage works from her office, and submit relevant drainage/sewerage proposal as appropriate; and
- (d) should the planning application be approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) to cover the proposed structures on site. The application for STW will be considered by Government in its landlord’s capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by her office.

### Agriculture

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

noting that the proposal will not involve hard paving of land within the Site (**Appendix Ib**), she has no strong view on the subject application from agricultural point of view.

## **Traffic**

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

- (a) it is noted from the applicant's submission that there would be no vehicle trips at peak hours (i.e. morning peak from 7:00am to 9:00am and afternoon peak from 5:00pm to 7:00pm). The traffic impact is considered minimal and the application is considered tolerable from traffic engineering point of view;
- (b) according to the applicant, a traffic sign would be provided at the entrance of the Site to ensure pedestrian safety. Should the application be approved, the applicant is required to implement the traffic management measures (i.e. provision of traffic sign) to ensure that it will not cause adverse traffic impact to the surrounding area; and
- (c) the vehicular access between the Site and Sha Tau Kok Road are not managed by his office. The applicant should seek comment from responsible party.

### 9.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) the section of Sha Tau Kok Road – Wo Hang adjacent to the Site is maintained by his office; and
- (b) the proposed access to the Site will pass through a strip of area between Sha Tau Kok Road and the Site which is an unallocated Government land (**Plan A-2**). The applicant is required to sort out the land issues with relevant land authority.

## **Environment**

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

- (a) noting that the applicant would minimize noise from the proposed use, such as prohibiting the use of public announcement system portable loudspeakers or any form of audio amplification system, he has no objection to the application from environmental planning perspective (**Plan A-2**);
- (b) there is one substantiated environmental complaint regarding flytipping/landfilling of construction and demolition materials against the subject lot and adjoining Government land in the past three years. However, no on-going flytipping/landfilling was spotted on Site;
- (c) adequate supporting infrastructure/facilities should be provided for proper collection, treatment and disposal of waste / wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the

requirements of EPD's PROPECC PN 5/93 "Drainage Plan subject to comment by the Environmental Protection Department"; and

- (d) the applicant is also advised to 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 minimize any potential environmental nuisance.

### **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 point of view;
- (b) the Site is situated in an area of rural landscape character surrounded by village houses, clusters of trees and farmlands. No sensitive landscape resource is observed within the Site. Hence, significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) since there is no major public frontage along the site boundary, and existing vegetation buffer is observed between Sha Tau Kok Road and the Site, it is 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 on the submission and implementation of drainage proposal is recommended to ensure that the development will not cause adverse drainage impact to the adjacent area; and
- (c) there is no public sewerage available near the Site.

### **Building Matters**

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works are to be carried out on the Site, the prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized buildings works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the Buildings Ordinance (BO);

- (b) for UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the application site under the BO;
- (c) temporary shelters or converted containers for storage/ washroom/ first-aid room/ site office are considered as temporary buildings, they are subject to control under the Building (Planning) Regulations (B(P)R) Pt. VII;
- (d) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the B(P)R respectively;
- (e) if the Site does not abut a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage; and
- (f) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under the BO will be provided at the building plan submission stage.

### **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) and water supplies for fire-fighting being provided to his satisfaction;
- (b) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his satisfaction;
- (c) the applicant should be 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 FSIs to be installed should be clearly marked on the layout plans; and
- (d) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

### **Water Supply**

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his inside services to the nearest suitable Government water mains for

connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Sha Tau Kok District Rural Committee and the Indigenous Inhabitant Representative of Ma Tseuk Leng Ha objected to the proposal on the grounds that there are insufficient information regarding the proposal and the proposed development has not sought consent from local villagers. The former North District Council (NDC) member of subject constituency had no comment on the application.

9.2 Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD) has no comment on the application.

## **10. Public Comments Received During Statutory Publication Period (Appendix IV)**

On 18.10.2019, the application was published for public inspection. During the statutory public inspection period, six public comments were received. A NDC member has reservations on the application in that there are insufficient infrastructures and transport facilities in support of the application and views of the local villagers should be sought. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Hong Kong Bird Watching Society, the World Wide Fund for Nature Hong Kong, Designing Hong Kong Limited and one individual object to the application mainly on the grounds that there is limited area proposed for the hobby farming; proposed structures at Site should be erected upon obtaining approval from relevant authorities; the proposed development would generate adverse environmental and sewage impact to the environment; and the Site is the subject of a "destroy first and develop later" case.

## **11. Planning Considerations and Assessments**

11.1 The application is for temporary place of recreation, sports or culture use (hobby farm) for a period of 3 years at the Site zoned "AGR" on the OZP. According to the applicant, about 350m<sup>2</sup> of the Site (about 70%) will be used for cultivation purpose. The remaining portion will be unpaved ground for access, manoeuvring of vehicle and parking spaces and ancillary use (storage of farm tools and toilet). The proposed use is considered generally 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. DAFC has no strong view against the application from agriculture point of view.

11.2 The proposed hobby farm is considered not entirely incompatible with the surrounding land uses which are mainly of rural landscape character comprising active / fallow agricultural land, temporary domestic structures, vacant land, and some open storage



uses (**Plan A-2**). CTP/UD&L, PlanD has no objection to the application from landscape planning point of view.

- 11.3 C for T, based on the information submitted by the applicant that there would be no vehicular trips at peak hours, considers that the traffic impact is minimal and the application is considered tolerable from traffic engineering point of view. DEP has no objection to the application and advised the applicant should adopt the environmental mitigation measures and requirements as set out in ProPECC PN5/93, the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” and all relevant environmental protection/ pollution control ordinances. Other relevant Government departments consulted, including CE/MN of DSD, CHE/NTE of HyD, D of FS and CE/C of WSD, have no adverse comment on or no objection to the application.
- 11.4 The Site is not the subject of any previous approval. There is no similar application within/partly within the “AGR” zone in the vicinity of the Site in the Luk Keng and Wo Hang area.
- 11.5 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.11 above, the Government department’s comments and the planning assessment above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11 and taking into account the local objections conveyed by DO(N), HAD and public comments in paragraphs 9.1.11 and 10 respectively, 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 3 years until 20.3.2023. 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. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no use of public announcement system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of a 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 20.9.2020;
- (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 20.12.2020;
- (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 20.9.2020;

- (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 20.12.2020;
- (g) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 20.12.2020;
- (h) if any of the above 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;
- (i) if any of the above planning conditions (c), (d), (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; and
- (j) upon 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 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such 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 the 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**

**Appendix I**

Application Form with Attachments received on 11.10.2019

<b>Appendix Ia</b>	Letter dated 11.11.2019 requesting for 1st deferment of consideration of the application
<b>Appendix Ib</b>	Further Information received on 21.1.2020
<b>Appendix Ic</b>	Further Information received on 2.3.2020
<b>Appendix Id</b>	Further Information received on 3.3.2020
<b>Appendix Ie</b>	Further Information received on 4.3.2020
<b>Appendix II</b>	Public Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Drawing A-3</b>	Drainage Plan
<b>Drawing A-4</b>	Extent of Hobby Farm
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**