

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/607

- Applicants** : Ms. LAI Tze Lin, Mr. WONG Yiu Wing and Smart Long Development Limited represented by Lawson David and Sung Surveyors Limited
- Site** : Lots 520 (Part) and 522 RP (Part) in D.D. 77, Ping Che, Ta Kwu Ling, New Territories
- Site Area** : About 1,118 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- 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 applicants seek 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 Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ under “AGR” zone is Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicants, the hobby farm comprises a farming area in the northern portion of the Site and two temporary structures for greenhouse and store room and toilet use respectively. About 55% of the Site (i.e. about 615m²) will be used for cultivation and green house for agricultural purpose. The remaining area will be used for landscaping area, vehicle manoeuvring store room, and toilet use (**Drawing A-1**). The ingress / egress point of the Site is about 8m wide and located at the southern portion leading to Ng Chow Road. Three private car parking spaces (measuring 5 m x 2.5 m each) for the staff / visitors will be provided. The Site will be fenced off with corrugated metal sheets of about 2.5m high.
- 1.3 The proposed operation hours are from 9:00 a.m. to 5:00 p.m. from Mondays to Sundays and there will be 1-2 staff in the Site during the operation hours. The estimated number

of visitors during weekdays and weekends are no more than 10 and 15 respectively. Advanced booking to visit the hobby farm is required. No public announcement system and loud speaker would be used at site. The site layout plan, landscape plan and traffic management plan submitted by the applicants are at **Drawings A-1 to A-3** respectively. The Site is currently vacant and hard paved.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 19.12.2018 (Appendix I)
- (b) Supplementary planning statement (Appendix Ia)
- (c) Letter dated 16.1.2019 requesting for deferment of consideration of the application (Appendix Ib)
- (d) Further Information received on 22.3.2019 (Appendix Ic)
- (e) Further Information received on 2.5.2019 (Appendix Id)
- (f) Further Information received on 3.5.2019 (Appendix Ie)

1.5 At the request of the applicants (**Appendices Ib**), the Rural and New Town Planning Committee (the Committee) of the Board agreed on 1.2.2019 to defer making a decision on the application for two months pending the preparation of further information to address departmental comments. The applicant submitted the further information (**Appendix Ic**) on 22.3.2019 and the application is re-scheduled for consideration by the Committee on 17.5.2019.

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in the supplementary planning statement (**Appendix Ia**) and subsequent further information. They can be summarized as follows:

- (a) the temporary place of recreation, sports or culture (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) there is increasing demand for recreational farming initiatives and the proposed development could enhance the knowledge and awareness of recreational farming of the locals;
- (c) the proposed development would optimize and revitalize the use of the Site and serve the local community;
- (d) the proposed development is compatible with the surrounding land uses and would improve the visual amenity of the area;
- (e) vehicular trips generated by the proposed development will be minimal. Sufficient spaces will be provided for parking and vehicle manoeuvring. Traffic management measures such as provision of traffic signs and on-site staff for traffic management are proposed to ensure pedestrian safety. No adverse traffic impact is expected;
- (f) the applicants will undertake proposed waste handling methods and proposed connection to public sewer to minimize possible environmental nuisance and sewerage impacts; and

(g) the proposal will not involve hard paving of land within the Site.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

According to the Chief Town Planner/ Central Enforcement & Prosecution, Planning Department (CTP/CEP, PlanD), the Site and its adjoining area were the subject of an enforcement case involving unauthorised storage use and parking of vehicles. The unauthorised development at the Site had been discontinued and Compliance Notice was issued on 15.11.2018. The Site is currently not subject to any enforcement action.

5. **Previous Application**

There is no previous application for the Site.

6. **Similar Application**

6.1 There is one similar application (Application No. A/NE-TKL/598) for proposed hobby farm for a period of three years. That application was approved by the Rural and New Town Planning Committee (the Committee) on 19.10.2018 mainly on the considerations that the temporary development was generally in line with the planning intention of “AGR” zone; and the proposed use would not induce any significant adverse impact to the surrounding area.

6.2 Details of this similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

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 and vacant; and
- (b) accessible from Ng Chow Road via a local track (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by open storage use, warehouses, active/fallow agricultural land, scattered temporary domestic structures and vacant land;

- (b) to the east and west are open storage yards, warehouses, container tractor park, temporary structures for domestic purpose and vacant land;
- (c) to the north is Ping Yuen River, and across the river are active/fallow agricultural land; and
- (d) to the south is Ng Chow Road, and across the road are temporary domestic structures, a temple and a knoll.

8. Planning Intention

The planning intention of the “AGR” zone in Ping Che and Ta Kwu 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 Office/North, Lands Department (DLO/N, LandsD):

- (a) the lots are Old Schedule lots held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access. The applicants should make their own arrangement for acquiring access and the Government shall accept no responsibility in such arrangement;
- (b) the occupation boundary is larger than that of the application area. The occupation boundary also encroaches onto Lot No. 518 RP in D.D. 77;
- (c) according to the development schedule as proposed by the applicants, structures will be erected within the Site. If the planning application is 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 his office.

Agriculture

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

- (a) noting that the proposal will not involve hard paving of land within the Site (**Appendix Ie**), she has no strong view on the subject application from agricultural point of view; and
- (b) the Site is near Ping Yuen River, the applicants should be reminded to implement good site practice so as not to pollute the river nearby (**Plan A-2**).

Traffic

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

- (a) having reviewed the further information (**Appendices Ic and Id**) submitted by the applicant, he has no further comment on the application on traffic engineering aspect; and
- (b) according to the submission from the applicant, the estimated traffic generation rate of the proposed development is 5 daily trips. The traffic impact is considered tolerable.

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

- (a) he has no comment on the application; and
- (b) that section of Ng Chow Road leading to the Site is not maintained by his office.

Environment

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

- (a) noting that the applicant will undertake the wastewater handling methods with best management practice and the proposed development will be connected to the public sewer as proposed in the further information respectively (**Appendices Ic and Id**), he has no objection to the application from environmental point of view;
- (b) there was no substantiated environmental complaint against the Site in the past three years; and
- (c) detailed advisory comments are appended in **Appendix III**.

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 temporary structures, car parks, open storage and clustered tree groups. According to her recent site record, the Site is fenced off by hoardings, mainly covered by asphalt with patches of wild grass covering small portion of the Site. Some existing trees of common species are found within the Site along the eastern and southern boundary. Significant adverse impact arising from the temporary use under the application on existing landscape resources is not anticipated;
- (c) since the Site is set back from public frontage with existing trees and vegetation as buffer in between Ng Chow 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. Should the Board approve this application, the applicant should be advised to maintain all existing trees within the Site at all times during the planning approval period; and
- (d) detailed advisory comments are appended in **Appendix III**.

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 / or contaminated discharge to flow over to the adjacent river course; and
- (c) there is public sewerage near the Site. A sewerage proposal should be submitted for approval if sewer connection to public sewerage is found feasible.

Building Matters

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

- (a) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorised

under the Buildings Ordinance (BO) and should not be designated for any approved use under this application;

- (b) before any new building works (including temporary buildings/structures and containers etc) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (c) if the proposed use under application is subject to the issue of a licence, any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (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 Building (Planning) Regulations (B(P)Rs) respectively; and
- (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)Rs 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 objection to the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans. In addition, the arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the BD.

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 applicants may need to extend his inside services to the nearest suitable Government water mains for connection. The applicants 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 incumbent 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

On 28.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, eight public comments, including 2 no comments, 3 objections and 3 support, were received (**Appendix IV**). A NDC member and the Chairman of Sheung Shui District Rural Committee indicate no comment on the application. The Hong Kong Bird Watching Society, World Wide Fund for Nature Hong Kong and one individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone; the Site is the subject of a "destroy first and develop later" case; the applicants fail to demonstrate that the development would not generate adverse environmental and sewerage impacts on the surroundings; there are tree felling at the southwestern portion of the Site; and approval of the application would set an undesirable precedent for similar applications in the area. Three individuals support the application mainly on the grounds that the proposed development would provide quality hobby farm experience to enhance the public awareness of agricultural activities; and traffic impacts are expected to be minimal.

11. Planning Considerations and Assessments

11.1 The subject 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 (**Appendix Ic**), majority of the Site (55% of the Site) will be used for cultivation and greenhouse for agricultural purpose. The remaining portion will be a soiled 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. Noting that the proposal will not involve hard paving of land within the Site, DAFC has no strong view against the application from agriculture point of view. In this regard, it is considered that 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 proposed hobby farm is considered not entirely incompatible with the surrounding land uses which are mainly of rural landscape character comprising vacant land, active / fallow agricultural land, temporary domestic structures, clustered tree group with some

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

- 11.3 The applicant has submitted further information on traffic aspects to demonstrate that the proposed development would not induce any significant adverse traffic impact to the surrounding area. In this regard, C for T has no further comment on the application from the traffic engineering point of view.
- 11.4 To address DEP's concern, the applicant proposed to convey all sewage generated from the proposed development to the public sewer along Ng Chow Road. As such, DEP has no objection to the application and advised the applicants 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.
- 11.5 There is one similar application (Application No. A/NE-TKL/598) for proposed hobby farm for a period of three years approved by the Committee on 19.10.2018 mainly on the considerations that the temporary development was generally in line with the planning intention of "AGR" zone; and the proposed use would not induce any significant adverse impact to the surrounding area. The planning circumstances of the current application are similar to the similar application.
- 11.6 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 having taken into account the public comments in paragraph 10 above, 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 **17.5.2022**. 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 9:00 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the existing trees on Site shall be maintained at all times during the planning approval period;
- (c) no use of public announcement system, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (d) the provision of boundary fencing on the Site within 6 months from the date of

planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 17.11.2019;

- (e) the submission of traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.11.2019;
- (f) in relation to (e) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.2.2020;
- (g) the submission of sewage 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 17.11.2019;
- (h) in relation to (g) above, the provision of sewage 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 17.2.2020;
- (i) 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 17.11.2019;
- (j) in relation to (i) 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 17.2.2020;
- (k) 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 17.11.2019;
- (l) in relation to (k) 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 17.2.2020;
- (m) if any of the above planning conditions (a), (b) or (c) 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;
- (n) if any of the above planning conditions (d), (e), (f), (g), (h), (i), (j), (k) or (l) 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
- (o) 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 applicants.

14. Attachments

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| Appendix I | Application Form with Attachments received on 19.12.2018 |
| Appendix Ia | Supplementary Planning Statement |
| Appendix Ib | Letter dated 16.1.2019 requesting for deferment of consideration of the application |
| Appendix Ic | Further Information received on 22.3.2019 |
| Appendix Id | Further Information received on 2.5.2019 |
| Appendix Ie | Further Information received on 3.5.2019 |
| Appendix II | Similar s.16 Application for Temporary Place of Recreation, Sports or Culture within/partly within the "Agriculture" zone in the vicinity of the application site in the Ping Che & Ta Kwu Ling Area |
| Appendix III | Recommended Advisory Clauses |
| Appendix IV | Public Comments |
| Drawing A-1 | Site Layout Plan |
| Drawing A-2 | Landscape Plan |
| Drawing A-3 | Traffic Management Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |