

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

**APPLICATION NO. A/YL-LFS/344**

- Applicant** : Fishing Leisure Farm Limited represented by R-riches Property Consultants Limited
- Site** : Lots 1563 (Part) and 1564 RP (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 8,077 m<sup>2</sup> (including about 99.6 m<sup>2</sup> Government Land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Fishing Ground) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “GB”. According to the Notes of the OZP for “GB” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The northwestern portion of the Site is currently hard-paved and occupied by temporary structures while the southeastern portion of the Site is part of a fish pond (**Plans A-2, A-4a and 4b**).
- 1.2 The Site is the subject of four previous applications (Applications No. A/YL-LFS/201, 252, 302 and 311) (**Plan A-1**) covering different site extents for different uses. For the last two applications for similar recreation use, Application No. A/YL-LFS/302 covering a larger site (i.e. the Site and its adjoining land) (about 11,942m<sup>2</sup>) for temporary place of recreation, sports and culture (hobby farm and fishing ground) for a period of 3 years was rejected by the Committee on 8.12.2017 while the last application (No. A/YL-LFS/311) covering a smaller site (i.e. the northwestern portion of the Site) (about 2,275m<sup>2</sup>) for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years was approved by

the Committee on 3.8.2018<sup>1</sup>. Details of the previous applications are at paragraph 6 and **Appendix II**.

1.3 A comparison of the major development parameters of the current application and the last approved application is as follows:

<b>Major Development Parameters</b>	<b>Last Approved Application (A/YL-LFS/311) (a)</b>	<b>Current Application (A/YL-LFS/344) (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm)	Proposed Temporary Place of Recreation, Sports or Culture (Fishing Ground)	Different uses
Site Area	about 2,275m <sup>2</sup> (including about 97m <sup>2</sup> GL) (covering the northwestern portion of the Site only)	about 8,077m <sup>2</sup> (including about 99.6m <sup>2</sup> GL)	+5,802m <sup>2</sup>
Total Gross Floor Area	630m <sup>2</sup> (Non-domestic)	1,123m <sup>2</sup> (Non-domestic)	+493m <sup>2</sup>
No. and Height of Structure(s)	4 (all in one-storey) <ul style="list-style-type: none"> <li>• 1 reception of 4.2m high</li> <li>• 2 agricultural learning centers with activities room of 4.2m high</li> <li>• 1 portable toilet of 3m high</li> </ul>	13 (all in one-storey) <ul style="list-style-type: none"> <li>• 1 fishing education centre of 3m high</li> <li>• 1 storage of fishing tools of 3m high</li> <li>• 1 covered seating accommodation of 3m high</li> <li>• 1 canopy (for circulation) of 3m high</li> <li>• 1 canopy (for an artificial fish pond underneath) of 3m high</li> <li>• 1 reception of 3m high</li> <li>• 3 canopies (covered fishing area) of 3m high</li> <li>• 3 toilets of 2.5m high</li> <li>• 1 meter room of 2.5m high</li> </ul>	+9 structures
Car Parking Spaces	0	7 for private cars	+7
Loading/unloading Spaces	1 for light goods vehicle	1 for light goods vehicle	No change
Operating Hours	9:00 a.m. to 6:00 p.m. daily	11:00 a.m. to 10:00 p.m. daily	Different operating hours

<sup>1</sup> The proposed site layout of the previous Application (No. A/YL-LFS/311) which comprises a farming area and four structures for reception, agricultural learning centres with activities room and portable toilet is different from the uses currently exist on the Site. The proposed hobby farm under Application No. A/YL-LFS/311 is not in operation now.

Expected No. of Visitors	10 people (weekdays)	20 people (weekdays)	+10 people (weekdays)
	20 people (weekends)	50 people (weekends)	+30 people (weekends)

- 1.4 Compared with the last approved Application No. A/YL-LFS/311, the current application is submitted by a different applicant for a different use on a larger site (+5,802m<sup>2</sup>).
- 1.5 According to the applicant, the Site is accessible via a local track leading from Tin Yuet Road (**Drawing A-1 and Plan A-3a**). The ingress/egress point is located at the southwestern boundary of the Site (**Drawing A-2**). 13 one-storey temporary structures of 2.5m-3m high are proposed on the northwestern portion of the Site with a total floor area of 1,123m<sup>2</sup>, including 1 fishing education centre reception, 1 storage of fishing tools, 1 covered seating accommodation, 1 canopy (for circulation), 1 canopy (for an artificial fish pond underneath), 1 reception, 3 canopies (covered fishing area), 3 toilets and 1 meter room. The artificial fish pond is made of PVC plastic provided for younger visitors (**Appendix Ic**). 7 parking spaces for private cars and 1 loading/unloading space for light goods vehicle will be provided at the Site. Southeastern portion of the Site (i.e. 5,150m<sup>2</sup> in area, about 64% of the Site) is part of a fish pond and two plastic floating platforms will be provided for fishing (tied to the ground by ropes) (**Appendix Ib**). As the whole fish pond falls within four private lots (i.e. Lots 1563, 1554 RP, 1556 and 1557 RP) (**Plan A-2**) and the applicant claims that he has only obtained the consent of the current land owner of Lot 1563, the application only covers part of the fish pond (i.e. Lot 1563) and the remaining fish pond (i.e. Lot 1554 RP, 1556 and 1557 RP) is not covered by the application. The applicant proposed to use netting (tied to poles stuck to the pond bed) to separate the Site from other private lots (**Drawings A-5 and A-6**). No land/pond filling and excavation of land will be carried out at the Site. The operation hours of the Site are from 11:00a.m. to 10:00p.m. daily.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 10.6.2019 with (**Appendix I**) replacement pages incorporated
  - (b) Supplementary Planning Statement including a location (**Appendix Ia**) plan, proposed layout plan and swept path analysis (in and out)
  - (c) Further Information (FI) received on 10.7.2019 (**Appendix Ib**) providing clarifications on the land status, floating platform design, and whether land/pond filling and excavation of land will be carried out at the Site (*accepted and exempted from publication and recounting requirements*)

- (d) FI received on 18.7.2019 providing replacement pages (**Appendix Ic**) of the application form, a paved ratio plan, a revised location plan, a revised layout plan and clarification on the artificial fish pond  
*(accepted and exempted from publication and recounting requirements)*

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They are summarized as follows:

- (a) The Site is covered by the approved Planning Application No. A/YL-LFS/311. The applied use is in line with the planning intention of the “GB” zone and the Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10) in providing passive recreational space.
- (b) The applied use is temporary in nature. It would not jeopardize the planning intention of the “GB” zone in the long run.
- (c) Upon expiry of the planning permission, the Site will be reinstated to an amenity area. Approval of the application will not set an undesirable precedent for similar applications.
- (d) The Site will not involve any filling of land/pond or excavation of land. The trash will be disposed of outside the Site in order to minimize environmental nuisance. Public announcement system or loud speakers are not allowed to be used at the Site.
- (e) 7 private car parking spaces will be provided on the Site and reservation is required. Visitors would access the Site by public transport or on foot. No vehicle will be allowed to queue back or reverse onto/from the public roads at any time in order to minimize the adverse traffic impact.
- (f) For sewerage treatment, the applicant will use septic tanks that follow the requirements of the Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PNs).
- (g) The applicant will adhere to the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“COP”) to minimize potential impacts on the surrounding environment.
- (h) The applicant will submit fire services installations (FSIs) proposal, drainage proposal and landscape and tree preservation proposal if the application is approved.

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

The applicant is not a “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. 31) by obtaining the consent of the current land owners of Lot 1563 and Lot 1564 RP in D.D. 129, posting site notice and sending the notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is part of a subject of an enforcement case for unauthorized development (UD) of use for recreation. An Enforcement Notice (EN) was issued on 14.8.2017 requiring the UD to be discontinued by 14.10.2017 (**Plan A-2**). As the UD was not discontinued as required by the EN, prosecution action was taken. The defendant(s) were convicted and fined in November 2018 by the court. Latest site inspection on 15.5.2019 revealed that the UD discontinued. The Site would be kept under close monitoring for further action, if necessary.

**5. Town Planning Board Guidelines**

5.1 The Town Planning Board Guidelines for “Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) is relevant to the application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) the design and layout of any proposed development should be compatible with the surrounding areas. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (d) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area; and

- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features.
- 5.2 The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C) are also relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:
- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
  - (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

## **6. Previous Applications**

- 6.1 The Site is the subject of four previous applications (Applications No. A/YL-LFS/201, 252, 302 and 311) covering different site extents for different uses from 2010 to 2018. Details of these previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-LFS/201 (covering southeastern portion of the Site) for pond filling and land filling for agricultural use was rejected by the Committee on 29.1.2010 mainly on the grounds of not in line with the TPB PG-Nos. 10 and 12C, adverse landscape and ecological impacts on the surrounding area, insufficient information to demonstrate the proposed pond filling and land filling would not have adverse drainage impact on the surrounding area, no previous approval for pond filling within the subject “GB” zone since the promulgation of the revised TPB PG-No. 12C and approval of the application would set an undesirable precedent and encourage similar applications within the “GB” zone.
- 6.3 Application No. A/YL-LFS/252 (covering northwestern portion of the Site) for temporary warehouse (storage of household materials and canned food) for a period of 3 years was rejected by the Board upon review on 14.2.2014 mainly on the grounds of not in line with the planning intention of “GB” zone and the TPB PG-No. 10, setting an undesirable precedent and insufficient information to demonstrate the proposed development would not have any adverse drainage and traffic impacts.

- 6.4 Application No. A/YL-LFS/302 (covering the Site and its adjoining land in a much larger extent) for temporary place of recreation, sports and culture (hobby farm and fishing ground)<sup>2</sup> for a period of 3 years was rejected by the Committee on 8.12.2017 mainly on the grounds of not in line with the planning intention of the “GB” zone and the TPB PG-No. 10 as the proposed development involved large area of hard paving and would affect the natural landscape.
- 6.5 The last Application No. A/YL-LFS/311 (covering northwestern portion of the Site) for temporary place of recreation, sports and culture (hobby farm)<sup>3</sup> for a period of 3 years was approved by the Committee on 3.8.2018 on the considerations of not including any barbecue activity and fishing ground, not in conflict with the planning intention of the “GB” zone, not incompatible with the landscape characters in the surrounding areas, in line with the TPB PG-No. 10, not causing adverse ecological impact and no objection/adverse comments from the concerned departments.

## 7. Similar Applications

- 7.1 There are six similar applications (Applications No. A/YL-LFS/31, 127, 166, 172, 278 and 304) for various temporary place of recreation, sports or culture uses for a period of 3 years within the same “GB” zone, in which 4 (Applications No. A/YL-LFS/166, 172, 278 and 304) were approved by the Committee and 2 (Applications No. A/YL-LFS/31 and 127) were rejected by the Board upon review. Details of the applications and the Committee’s decision are summarized at **Appendix III** and the locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-LFS/166, 172, 278 and 304 for temporary hobby farm and/or various recreational uses including barbecue spot, refreshment kiosk, fishing ground and children playground were approved by the Committee on 14.12.2007, 7.3.2008, 20.11.2015 and 6.4.2018 respectively for a period of 3 years mainly on considerations of not involving any pond filling or affecting the existing natural landscape within the “GB” zone, compatible with the surrounding land-uses, in line with the planning intention of the “GB” zone and no significant traffic and environmental impacts on the area. However, Applications No. A/YL-LFS/166 and 278 were subsequently revoked due to non-compliance with approval conditions regarding the submission and/or implementation of drainage impact assessment, landscape and tree preservation proposal and/or provision of FSIs within the planning approval period.
- 7.3 Applications No. A/YL-LFS/31 and 127 for pond filling and development of golf driving range and temporary roller skating rink were rejected by the Board upon

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<sup>2</sup> According to the applicant, the fishing facility, refreshment kiosk, activity room, storage, staff canteen and portable toilet (2,473m<sup>2</sup>, about 20% of the site area) would be hard-paved and the remaining (9,095m<sup>2</sup>, about 80% of the site area) comprises a fish pond (6,901m<sup>2</sup>, about 57.8%), farm area, grass area and vehicular access and parking.

<sup>3</sup> According to the applicant, only the reception, agricultural learning centres and activities room (984m<sup>2</sup>, about 43% of the site area) would be hard-paved and the remaining (1,291m<sup>2</sup>, about 57% of the site area) would be un-paved for farm area and soil ground purpose.

review on 18.12.1998 and 17.6.2005 respectively. They were rejected mainly on the grounds that the proposed development was not in line with the planning intention of the “GB” zone and did not comply with the TPB PG-No. 10; there was insufficient information in the submission to demonstrate the proposed development would not have adverse environmental, drainage and landscape impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications.

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

8.1 The Site is:

- (a) partly hard-paved and occupied by temporary structures, and partly occupied by part of a fish pond; and
- (b) accessible via a local track leading from Tin Yuet Road.

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) to the west and northwest are scattered residential dwellings (the closest residential dwelling is about 18m away) and fallow agricultural land;
- (b) to the immediate northeast is the remaining part of the fish pond and the further north and east are cultivated and/or fallow agricultural land and vacant land; and
- (c) to the southeast is an open storage yard.

## **9. Planning Intention**

The planning intention of “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. However, limited development may be permitted if they are justified on strong planning grounds.

## **10. Comments from Relevant Government Departments**

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

### **Land Administration**

10.1.1 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) No permission is given for occupation of Government Land (GL) of about 99.6m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Tin Yuet Road through GL and private lots. Her office provides no maintenance work to the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Her investigation revealed unauthorized structures had been erected at Lot No. 1564 RP in D.D. 129. This constitutes breach of the lease conditions of Block Government Lease under which the lot is held. Hence, her office issued warning letters to the respective registered owner(s) of the lot requiring rectification of the breach of lease conditions before a stipulated deadline. As the breach had not been rectified, her office has sent the aforesaid warning letters to the Land Registry for registration. Her office reserves the right to take necessary actions against the unauthorized structures.
- (f) Should the planning application be approved, the lots owners will need to apply to her office to permit the structures to be erected or regularize any irregularity on site, if any. Also, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application(s) for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) (NTEH) will be considered or allowed. Application(s) for any of the above will be considered by LandsD acting in the capacity of the 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 premium or fee, as may be imposed by LandsD.

### **Nature Conservation**

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

- (a) It is noted that the Site is located within the WBA and was the subject of a previous complaint on suspected unauthorized activities/development reported by the Hong Kong Bird Watching Society in July 2015. In addition, it appears that the proposed floating platforms for fishing would not comply with the "no-net-loss-in-wetland" principle as stipulated in the TPB PG-No. 12C, and the history of the Site should be taken into account when considering the application.

- (b) The current application covers the southwestern portion of a pond but excludes the northeastern portion of the same pond. However, it is of concern that the proposed development may also affect the northeastern portion of the same pond which is not covered in the application. Furthermore, the proposed vehicular access from Tin Yuet Road via a local track around the southern boundary of the pond may inevitably cause disturbance to the pond within the Site (**Plans A-2 and A-3**).
- (c) For the pond which falls within four different private lots, the applicant proposed to use netting (i.e. net tied to poles stuck to the pond bed) along the boundary of the Site (i.e. southwestern portion of the pond) to separate it from the northeastern portion of the pond which falls outside the Site. This proposed measure is undesirable from ecological perspective as it will fragment one bigger pond into two smaller ponds and may obstruct the movement of wildlife.

### **Landscaping**

#### 10.1.3 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D):

- (a) The Site, located between Tin Heng Estate and Mong Tseng Tsuen, lies in an area zoned “GB”. The Site is the subject of previous application No. A/YL-LFS/311 for temporary hobby farm to which he had reservation from the landscape planning perspective. The current application seeks planning approval for similar use on a much larger site.
- (b) With reference to the site visit on 21.2.2019 and aerial photo of 2018, the western portion of the Site is hard paved with some temporary structures, while the eastern portion is occupied by a fish pond. Apart from an existing tree in fair condition growing within the Site, only individual shrubs of common species are found along the southern edge of the fishpond. The proposed use appears to be already in operation. The Site is situated in an area of rural landscape character dominated by wooded areas, temporary structures and fish ponds.
- (c) When comparing the aerial photos of 2012 (**Plan A-3b**) and 2015 (**Plan A-3c**), it is observed that the vegetation including trees and shrubs at the southern portion of the Site are missing and part of the Site is hard-paved. Furthermore, the formation works along the pond edge or filling of the pond appear to have taken place. Hence landscape impact has taken place.
- (d) Approval of the application may likely set an undesirable precedent to encourage other similar application to form the site prior to the approval of planning application. The cumulative impact of which would lead to the general degradation of the rural landscape character and the integrity of the “GB” zone.
- (e) In view of the above, he has reservation on the application from the landscape planning perspective.

- (f) In consideration that the Site is not adjoining any prominent public frontage and that the proposed use is unlikely to cause landscape impact, it is opined that the condition to maintain the existing tree within the Site in good condition for the duration of the planning approval period is adequate and appropriate should the application be approved by the Board.

### **Traffic**

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.

#### 10.1.5 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by TD.
- (b) The temporary vehicular access proposed in previous planning application No. A/YL-LFS/311 (i.e. at the northern corner of the Site) which is pending to be accepted by his office is found on site. Since the vehicular access point is revised, the applicant is requested to remove the previous temporary vehicular access to the satisfaction of HyD and TD. The applicant is also requested to reinstate the drainage channel at the northwest of the Site to the satisfaction of the relevant maintenance party/department.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Yuet Road.

### **Environment**

#### 10.1.6 Comment of the Director of Environmental Protection (DEP):

- (a) He has no adverse comment on the application provided that the following measures as proposed by the applicant would be properly implemented:
  - (i) No operation from 10:00 p.m. to 11:00 a.m. of the following day;

- (ii) Provision of septic tank in accordance with ProPECC Note 5/93 for sewage disposal; and
  - (iii) No loud speaker/loud hailer would be used.
- (b) No substantiated environmental complaint pertaining to the Site has been received in the past three years.
  - (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "COP".

### **Drainage**

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

### **Fire Safety**

#### 10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to FSIs being provided to the satisfaction of D of FS.
- (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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) 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.

### **Building Matters**

#### 10.1.9 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 for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a NTEH) are erected on leased land without the approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD 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 Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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) Regulation respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

### **Others**

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

- (a) No Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding.
- (b) Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public.
- (c) For any waste generated from such activity / operation, the applicant should arrange disposal properly at their own expenses.

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

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

His office has received one comment from the village representative of Mong Tseng Wai (**Appendix IV**) objecting to the application mainly on the grounds that the applied use is not compatible with the planning intention of the "GB" zone and would cause adverse traffic impact.

10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Commissioner of Police (C of P); and
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

### **11. Public Comments Received During Statutory Publication Period**

On 18.6.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 9.7.2019, five public comments were received from Kadoorie Farm & Botanic Garden Corporation, a member of the public, villagers of Mong Tseng Wai, Designing Hong Kong Limited and Hong Kong Bird Watching Society objecting to the application and the reasons are summarized below (**Appendices V-1 to V-5**):

- (a) The applied use is in not in line with the planning intention of the "GB" zone and the TPB PG-No. 10;
- (b) Approval of the application would set an undesirable precedent for similar applications with the same "GB" zone;
- (c) There is a lack of various impact assessments including drainage, landscape as well as environmental impact assessments;
- (d) The applied use is unauthorized development. The Board should not encourage "develop first, apply later" or "destroy first, build later" attitude; and
- (e) There would be potential impacts (e.g. noise, visual, drainage, sewerage, landscape, environmental and traffic impacts) to the nearby "Conservation Area" and the Hong Kong Wetland Park Special Area.

## 12. Planning Considerations and Assessments

- 12.1 The current application is for temporary place of recreation, sports or culture (fishing ground) for a period of 3 years. The Site is zoned “GB” on the OZP. The planning intention of “GB” is to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Limited development may be permitted if they are justified on strong planning grounds. The applied use involves converting part of an existing fish pond (i.e. 63.7% of the Site, about 5,150m<sup>2</sup>) to a fishing ground with provision of two floating platforms tied to the ground by ropes (**Drawing A-2**) and provision of netting tied to poles stuck to the pond bed to separate from the remaining part of the fish pond (**Drawings A-4 and A-5**). 32.6% of the Site (about 2,632m<sup>2</sup>) is hard-paved for 13 one-storey temporary structures (about 1,123m<sup>2</sup> floor area) for fishing education centre, storage of fishing tools, canopies for circulation/seating accommodation/fishing area, etc., and the remaining 3.7% of the Site (about 295m<sup>2</sup>) is soil ground. In view of the nature and scale of the proposed development, it cannot be considered that the applied use is in line with the planning intention of the “GB” zone and there is no strong planning justification given in the submission for a departure of such planning intention, even on a temporary basis.
- 12.2 According to the TPB PG-No.10 for the Application for Developments within the “GB” Zone under Section 16 of the Town Planning Ordinance, the design and layout of any development should be compatible with the surrounding areas and should not affect the existing landscape. CTP/UD&L, PlanD points out that vegetation including trees and shrubs at the southern portion of the Site are missing and part of the Site is hard-paved; the formation works along the pond edge or filling of the pond appear to have taken place, resulting in landscape impacts. He has reservation on the application from landscape planning perspective. In this regard, the applied use is not in line with the TPB PG-No. 10 as the applied use would affect the natural landscape.
- 12.3 According to the TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds. DAFC points out that the application covers the southwestern portion of a pond but excludes the northeastern portion of the same pond, so the applied use may affect the northeastern portion of the same pond which is not covered by the application. The proposed netting separation measure of the fish pond is considered undesirable from ecological perspective as it will fragment one bigger pond into two smaller ponds and may obstruct the movement of wildlife. The proposed vehicular access from Tin Yuet Road via a local track around the southern boundary of the pond may inevitably cause disturbance to the pond within the Site. Besides, the proposed floating platforms for fishing would not comply with the “no-net-loss in wetland” principle as stipulated in the TPB PG-No. 12C. The ecological integrity of the existing fish pond will inevitably be affected.
- 12.4 The Committee/the Board has rejected three previous applications for pond filling and land filling for agricultural use, temporary warehouse and temporary hobby farm and fishing ground at the Site for a period of 3 years and also rejected two similar applications within the same “GB” zone. Although the Committee has approved the last application (No. A/YL-LFS/311) for temporary hobby farm for a period of 3 years,

sympathetic considerations were given on the grounds that the proposed development covered a smaller site extent and did not involve barbecue activity and fishing ground. Only 43% of the concerned site (about 978m<sup>2</sup>) would be hard-paved for reception, agricultural learning centres and activities room and the remaining part (about 1,297m<sup>2</sup>) would be unpaved for farm area and soil ground. For the last application, DAFC considered that there was no ecological impact associated with the development, which did not involve any pond filling, excavation of land or tree felling works, and the development was proposed for farm area, agricultural learning centre and activities room, and there were also no adverse comments from concerned Government departments. However, for the current application, the applied use involves converting part of an existing fish pond to a fishing ground (about 5,150m<sup>2</sup>) and hard-paved area (about 2,632m<sup>2</sup>) and the applicant fails to demonstrate that the applied use would not have adverse ecological and landscape impacts. As such, rejecting the current application is in line with the Committee/the Board's previous decisions.

- 12.5 There are six public comments received (**Appendices IV and V-1 to V-5**) objecting to the application on the grounds as summarized in 10.1.11 and 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.4 are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comment mentioned in paragraphs 10.1.11 and 11 above, the Planning Department does not support the application for temporary place of recreation, sports or culture (fishing ground) for the following reasons:

- (a) the applied use is not in line with the planning intention of the "Green Belt" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applied use is not in line with the TPB PG-No. 10 for Application for Developments within the "Green Belt" Zone in that the applied use would affect the natural landscape; and
- (c) the applied use is not in line with the TPB PG-No. 12C for Application for Development within Deep Bay Area in that it will affect the ecological integrity of the existing fish pond.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **2.8.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 10:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to public roads or reverse onto/from the public roads at any time during the planning approval period;
- (c) no pond/land filling and excavation of land, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no use of public announcement system and loud speaker/loud hailer, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (e) 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 **2.2.2020**;
- (f) in relation to (e) above, the implementation of the 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 **2.5.2020**;
- (g) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) all the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (i) 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 **2.2.2020**;
- (j) in relation to (i) 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 **2.5.2020**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (g) or (h) 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;
- (l) if any of the above planning conditions (e), (f), (i) or (j) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (m) 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 attached at **Appendix VI**.

## **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse the planning permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.
- 14.3 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.

## **15. Attachments**

<b>Appendix I</b>	Application Form received on 10.6.2019 with replacement pages incorporated
<b>Appendix Ia</b>	Supplementary Planning Statement including a location plan, proposed layout plan and swept path analysis (in and out)
<b>Appendix Ib</b>	Further Information received on 10.7.2019 providing clarifications on the land status, floating platform design, and whether land/pond filling and excavation of land will be carried out at the Site
<b>Appendix Ic</b>	Further Information received on 18.7.2019 providing replacement pages of the application form, a paved ratio plan, a revised location plan, a revised layout plan and clarification on the artificial fish pond
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications within the Same “GB” Zone on the Approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/9
<b>Appendix IV</b>	Local Comment Relayed from DO(YL), HAD
<b>Appendices V-1 to V-5</b>	Public Comments Received During Statutory Publication Period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Swept Path Analysis (In)
<b>Drawing A-4</b>	Swept Path Analysis (Out)
<b>Drawing A-5</b>	Proposed Netting to Separate the Site from the Remaining Part of the Fish Pond
<b>Drawing A-6</b>	Section Plan of the Proposed Netting
<b>Drawing A-7</b>	Paved Ratio Plan

<b>Plan A-1</b>	Location Plan with Previous Applications and Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a to 3c</b>	Aerial Photos
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2019**