

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/343

- Applicant** : Mr. Yau Ka Wing represented by Metro Planning and Development Company Limited
- Site** : Lots 860 RP and 878 RP (Part) in D.D.129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
- Site Area** : About 1,038m² (including about 182m² 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 (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 temporary place of recreation, sports or culture (hobby farm) 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’ (under which hobby farm is subsumed) is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and fenced-off and partly covered with grass. The Site does not involve any previous application.
- 1.2 The Site is accessible from Deep Bay Road (**Drawing A-1 and Plan A-2**). The ingress/egress point is located at the northwestern boundary of the Site (**Drawing A-3**). As shown on **Drawing A-3** and specified in **Appendix Ic**, the proposed hobby farm consists of farming area (i.e. open field cultivation for vegetables) (71.53%), landscaping area (1.06%) and other soil ground area (27.41%) for surface U-channel, 1 private car parking space and manoeuvring space and 3 covered structures for storage of farm tools and toilet, water tank and electricity meter room. The 3 covered structures are one storey (about 3-3.5m) in height with a total floor area of 44m². According to the applicant, the Site would be

covered with soil and would not be hard-paved. The operation hours of the Site are from 9:00a.m. to 5:00p.m. daily. The proposed hobby farm will be opened to a group of visitors of not more than 4 persons each day. Plans showing the Site, location, site layout, landscape proposal and drainage proposals submitted by the applicant are at **Drawings A-1 to A-5**.

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

- (a) Application Form received on 17.5.2019 **(Appendix I)**
- (b) Supplementary Planning Statement including a location plan, proposed layout plan, proposed landscape plan and proposed drainage plan **(Appendix Ia)**
- (c) Letter dated 4.6.2019 clarifying the trip generation and attraction **(Appendix Ib)**
[accepted and exempted from publication and recounting requirements]
- (d) Letter dated 20.6.2019 clarifying the type of agricultural activities and the size of farming area **(Appendix Ic)**
[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 **Appendices Ia to Ic**. They are summarized as follows:

- (a) The proposed development is in line with the planning intention of the “GB” zoning and the Town Planning Board Guidelines for Application for Development within Green Belt Zone to provide a passive recreational space.
- (b) The proposed temporary hobby farm serves as a place for public to experience organic farming and practice of farming techniques. The nature of the proposed development is compatible with the surrounding areas.
- (c) The proposed development would be opened to one group of visitors of not more than 4 persons each day accommodated by 1 private car, adverse traffic impact would not be generated.
- (d) Public announcement system is not allowed to be used at the Site. The proposed development would not generate significant environmental disturbance to the vicinity.
- (e) Similar applications within the same “GB” zone have been approved by the Committee/Board previously.
- (f) The Site would not be hard-paved and would be covered with soil. Open field cultivation would be carried out at the Site, the crops to be grown would be

vegetables and would be reserved for self-consumption of the participants.

- (g) A mobile toilet is proposed at the Site. The human waste would be regularly cleaned by professional sewage treatment company.

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 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 not subject to any active enforcement action.

5. Town Planning Board Guidelines

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.

6. Previous Application

The Site does not involve any previous application.

7. Similar Applications

- 7.1 Within the same “GB” zone, there are 9 similar applications (Applications No. A/YL-LFS/31, 39, 56, 127, 166, 172, 278, 304 and 311) for various temporary place of recreation, sports or culture uses, 7 of which were approved by the Rural and New Town Planning Committee (the Committee) and 2 were rejected by the Board upon review. Details of the applications and the Committee’s/Board’s decision are summarized at **Appendix II** while the locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-LFS/39, 56, 166, 172, 278, 304 and 311 for temporary hobby farm and/or various recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, garden and/or fishing ground were approved by the Committee on 14.5.1999, 28.7.2000, 14.12.2007, 7.3.2008, 20.11.2015, 6.4.2018 and 3.8.2018 respectively mainly on the 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 to the area. Amongst these approved applications, 2 of which (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 proposals and provision of FSIs within the planning approval period.
- 7.3 Application No. A/YL-LFS/31 for pond filling and development of golf driving range and Application No. A/YL-LFS/127 for temporary roller skating rink were rejected by the Board upon review on 18.12.1998 and 17.6.2005 respectively. They were rejected mainly on 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, landscape and/or traffic 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) currently vacant and fenced-off and partly covered with grass; and
- (b) accessible from Deep Bay Road (**Plan A-2**).

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

- (a) to its immediate northeast across a local track within the same “GB” zone is an open storage yard and to the further north is vacant land;
- (b) to its immediate east and south within the same “GB” zone is fallow agricultural land and vacant land and to the further southeast are open storage yards; and
- (c) to its immediate west across Deep Bay Road zoned “Coastal Protection Area” (“CPA”) is vacant land and to the further northwest 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 the GL of about 182m² in area (subject to verification) included in the Site. The act of occupation of the GL without Government’s prior approval is not allowed.
- (c) The Site is accessible from Deep Bay Road through GL. Her office does not guarantee any right-of-way over the GL to the Site and provides no maintenance work for the GL involved.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the planning application be approved, the lot owners will need to apply to her office to permit the structures to be erected or

regularize any irregularity on the Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, 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. Applications of 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 will be approved. If such application 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.

Traffic

10.1.2 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 spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.

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

- (a) The access arrangement should be commented by Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper road connection or run-in/out should be constructed to the satisfaction of TD and HyD.
- (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 Deep Bay Road.

Environment

10.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) He has no adverse comment on the application. According to the submitted information, heavy vehicles and dusty operation are not expected on the Site.
- (b) No substantiated environmental complaint pertaining to the Site has

been received in the past three years.

- (c) Regarding the proposed mobile toilet, the applicant is reminded to properly dispose of the sewage from the proposed mobile toilet to avoid overflow.
- (d) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP").

Drainage

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant is reminded that the development should neither obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the flow adjacent areas. The peripheral surface channels should be constructed at adequate level such that surface runoff can be effectively intercepted

Fire Safety

10.1.6 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.

Landscaping

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

- (a) With reference to the site visit on 11.6.2019 and aerial photo of 2017, the Site is mainly vegetated by wild grass. The Site is situated in an area of rural landscape character dominated by active farmland but disturbed by open storage yards. Significant change to the landscape character arising from the application is not envisaged. Hence, he has no objection to the application from the landscape planning perspective.
- (b) In consideration that the Site is not adjoining any prominent public frontage and the farming nature of the application, the inclusion of a landscape condition is opined not necessary should the Board approve the application.
- (c) It should be reminded that approval of the application by the Board does not imply the approval of tree works (such as felling/transplanting or pruning) and/or requirements under lease. Tree works applications should be submitted direct to DLO for approval.

Nature Conservation

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

It is noted that the Site falls within “GB” zone and possesses potential for agricultural rehabilitation. On the understanding that the proposed development is for agricultural activities, no land filling, land excavation, site formation or paving of land is proposed, she has no strong view on the application from agricultural point of view.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.

- (c) 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 respectively.
- (d) 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) Regulations at the building plan submission stage.

Others

10.1.10 Comments of the Director of Food, Environment and 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 the activity / operation, the applicant should arrange disposal properly at his 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 1 comment from the village representative of Mong Tseng Wai Tsuen (**Appendix III**) objecting to the application mainly on the grounds that the proposed development would bring additional flow of visitors and cause adverse traffic, visual and drainage impacts to the surrounding areas.

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

- (a) Project Manager (West)/West Development Office, Civil Engineering and Development Department (PM(W)/WDO, 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 24.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 14.6.2019, 3 public comments were received from the World Wide Fund for Nature Hong Kong, the Hong Kong Bird Watching Society and a member of the public (**Appendices IV-1 to IV-3**). All of them object to the application and their reasons are summarized below:

- (a) the proposed development is not in line with the planning intention of the “GB” zone and the TPB PG-No. 10;
- (b) the clearance of vegetation has taken place at the Site, the Board should not encourage “develop first, apply later” attitude;
- (c) the proposed development would generate potential sewerage impacts to the nearby watercourse that flows to the coastal habitats; and
- (d) the approval of the application would set an undesirable precedent for future similar applications within the “GB” zone and would lead to general degradation of the landscape character.

12. Planning Considerations and Assessments

12.1 The current application is for proposed temporary place of recreation, sports or culture (hobby farm) 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. However, limited development may be permitted if they are justified on strong planning grounds. The proposed hobby farm consists of farming area (i.e. open field cultivation for vegetables) (71.53%), landscaping area (1.06%) and other soil ground area (27.41%) for surface U-channel, parking and manoeuvring space and 3 covered structures for storage of farm tools and toilet, water tank and electricity meter room. DAFC has no strong view on the application as the proposed development would not involve any land filling, land excavation, site formation or paving of land. Hence, the proposed hobby farm involving passive recreational use is considered not entirely in conflict with the planning intention of the “GB” zone.

12.2 The Site would be covered with soil and would not be hard-paved. The majority of the Site (about 72.59%) will be used for farming and landscaping. The scale of the development under application involves 3 one-storey structures (with height of 3-3.5m and total floor area of about 44m²) (**Plan A-2 and Drawing A-3**) is not entirely incompatible with the surrounding areas which are largely rural in character and comprise predominantly fallow agricultural land and vacant land.

12.3 The proposed development is generally in line with 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) in that the design and layout of the proposed development is compatible with the surrounding areas, the proposed development does not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. In addition, the proposed development does not overstrain the capacity of existing and planned infrastructure.

- 12.4 There is no adverse comment from the concerned Government departments, including DAFC, DEP, C for T, CE/MN of DSD, and CTP/UD&L, PlanD. The proposed development will unlikely create significant adverse ecological, environmental, traffic, drainage and landscaping impacts to the surrounding areas. To minimize any possible environmental impacts and nuisance on the surrounding developments, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.5 Given that 7 similar applications (No. A/YL-LFS/39, 56, 166, 172, 278, 304 and 311) for temporary hobby farm and/or various recreational uses have been approved within the same “GB” zone, approval of the current application is considered in line with the Committee’s previous decisions. Although 2 similar applications (No. A/YL-LFS/31 and 127) for pond filling and development of golf driving range and temporary roller skating rink in the same “GB” zone were rejected by the Board upon review, they were rejected mainly on the grounds that the proposed development of golf driving range/roller skating rink was not in line with the planning intention of the “GB” zone and did not comply with the TPB PG-No. 10 and there was insufficient information in the submission to demonstrate no adverse environmental, drainage, landscape and/or traffic impacts on the surrounding areas. It should be noted that the current application is for leisure farming purpose and does not involve land/pond filling.
- 12.6 There are 4 public comments received (**Appendix III and Appendices IV-1 to IV-3**) objecting to the application on the grounds as summarized in paragraphs 10.1.11 and 11 above. The planning considerations and assessments in the paragraphs 12.1 to 12.5 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 comments mentioned in paragraphs 10.1.11 and 11, the Planning Department has no objection to the proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years.

- 13.2 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 **5.7.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00p.m. and 9:00a.m., 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 at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the public roads at any time during the planning approval period;
- (d) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **5.1.2020**;
- (e) in relation to (d) above, the implementation of the run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by **5.4.2020**;
- (f) the implementation of the 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 **5.1.2020**;
- (g) the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) 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 **5.1.2020**;
- (i) in relation to (h) 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 **5.4.2020**;
- (j) if any of the above planning conditions (a), (b), (c) or (g) 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;
- (k) if any of the above planning conditions (d), (e), (f), (h) or (i) 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

- (l) 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 V**.

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

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.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form received on 17.5.2019
Appendix Ia	Supplementary Planning Statement including a location plan, proposed layout plan, proposed landscape plan and proposed drainage plan
Appendix Ib	Letter dated 4.6.2019 clarifying the trip generation and attraction
Appendix Ic	Letter dated 20.6.2019 clarifying the type of agricultural activities and the size of farming area
Appendix II	Similar Applications within the same "GB" zone
Appendix III	Local Comment from DO/YL, HAD
Appendices IV-1 to IV-3	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Site Plan

Drawing A-2	Location Plan
Drawing A-3	Proposed Layout Plan
Drawing A-4	Proposed Landscape Plan
Drawing A-5	Proposed Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2019**