

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

APPLICATION NO. A/YL-LFS/354

- Applicant** : Mr. Tang Chun Pang represented by R-riches Property Consultants Limited
- Site** : Lots 588 and 594 (Part) in D.D. 128, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 3,954 m²
- Lease** : Lot 588 in D.D. 128: Tai Po New Grant No. 2645 (New Grant Agricultural Lot)
Lot 594 in D.D. 128: Yuen Long New Grant No. 282 (New Grant Agricultural Lot)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Place of Recreation, Sports or Culture for a Period of 3 Years and Land Filling

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for the proposed temporary place of recreation, sports or culture for a period of 3 years and land filling (**Plan A-1**). The Site falls within the “R(D)” zone on the approved Lau Fau Shan and Tsim Bei Tsui OZP. According to the Notes of the OZP for the “R(D)” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Any filling of land/pond or excavation of land also requires planning permission from the Board. The Site is currently vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 As indicated in the applicant’s submission (**Appendix Ia**), the applicant proposes to use the Site for hobby farm with ancillary uses such as agriculture education centre, refreshment kiosk, etc. As shown on the proposed layout plan and the proposed paved area ratio plan at **Drawings A-2 and A-3** respectively, the

proposed temporary place of recreation, sports or culture has a site area of about 3,954m², including farm area (about 2084m² or about 53% of the Site) and land filling area (about 1870m² or about 47% of the Site). The ingress/egress is located at the northeast corner of the Site. Access to the Site is via a local access road linking to Deep Bay Road and Lau Fau Shan Road. The eastern and southern parts of the Site are proposed for land filling for not more than 0.2m depth for structures, pedestrian and circulation areas. Farm area will be located at the northern and western parts of the Site. The Site includes six temporary 1-storey structures (about 3m – 3.5m) for reception and refreshment kiosk, storage of farm tools, changing room, agricultural education rooms, fire services water tank and washroom. The total gross floor area is about 916m². No car parking spaces nor loading/unloading spaces will be provided at the Site. The operation hours of the proposed development will be 10:00 a.m. to 5:00 p.m., Mondays to Sundays, including public holidays. The maximum numbers of visitors are expected to be 10 and 20 on weekdays and at weekends/public holidays respectively.

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

- (a) Application form received on 20.11.2019 (Appendix I)
- (b) Supplementary planning statement (Appendix Ia)
- (c) Further information on loading/unloading arrangement received on 31.12.2019 (Appendix Ib)
(exempted from publication and recounting requirements)
- (d) Further information clarifying the operation hours received on 8.1.2020 (Appendix Ic)
(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 in **Appendices Ia and Ib**. They can be summarized as follows:

- (a) Similar application in the same “R(D)” zone of the OZP has been approved by the Board.
- (b) The proposed development is temporary in nature and will not jeopardise the long term planning intention of the Site.
- (c) No parking or loading/unloading space will be provided at the Site so it will not create adverse traffic impact to the surrounding roads. The increased number of pedestrian flow at the footpath of Deep Bay Road is estimated to be not more than 15 persons per hour.
- (d) Use of loud speaker and camping activity are not allowed at the Site.
- (e) Staff will share farming knowledge with visitors so as to promote sustainable agricultural development.

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. 31A) by posting notice at the Site and sending notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to two enforcement cases (No. E/YL-LFS/362 and No. E/YL-LFS/367) (**Plan A-2**) and the alleged unauthorized developments are pond filling and land filling. For enforcement case No. E/YL-LFS/362, an enforcement notice and a reinstatement notice were issued on 1.12.2014 and 5.6.2015 respectively. For enforcement case No. E/YL-LFS/367, an enforcement notice and a reinstatement notice were issued on 4.3.2015 and 5.6.2015 respectively. No compliance notice regarding the two enforcement cases is issued. The Site would be kept under close monitoring for further action, if necessary.

5. Previous Application

The Site does not involve any previous planning application.

6. Similar Application

There is one similar application (No. A/YL-LFS/323) at a site to the immediate north of the Site which is mainly zoned “R(D)” with a portion zoned “R(C)” on the OZP for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years. It was approved by the Rural and New Town Planning Committee (the Committee) of the Board with conditions on 20.7.2018. The application was approved mainly on the considerations that the proposed development is not in conflict with the planning intentions of the “R(C)” and “R(D)” zones and would not jeopardise the long term development of the site, not incompatible with the general character of the area and there is no objection/adverse comments from the concerned Government departments. Details of the application and the Committee’s decision is summarized in **Appendix II** and its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plan A-1 to Plans A-4a & 4b)

7.1 The Site is:

- (a) currently vacant; and
- (b) accessible from Deep Bay Road via a local access (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to the north is temporary place of recreation, sports or culture (hobby farm)

with a valid planning permission under Application No. A/YL-LFS/323. To the further north is a residential development (Deep Bay Grove) and vacant land;

- (b) to the north-east are open storage of construction materials and machinery and vehicle park;
- (c) to the south-east is temporary shop and services (convenience store) with a valid planning permission under Application No. A/YL-LFS/340;
- (d) to the south across the nullah is gardening, church and refuse collection point; and
- (e) to the west are residential structures in Hang Hau Tsuen.

8. Planning Intention

The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises two New Grant Agricultural Lots held under Tai Po New Grant No. 2645 (Lot No. 588 in D.D. 128) and Yuen Long New Grant No. 282 (Lot No. 594 in D.D. 128) respectively which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible from Deep Bay Road through Government Land (GL) and private lots. His office provides no maintenance works over the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should the planning application be approved, the lot owner(s) of the lot(s) without Short Term Waiver will need to apply to his office for permitting the structures to be erected or regularize any irregularity on site, if any. No construction of New Territories Exempted Building(s) will be considered or allowed.

Application(s) for any of the above will be considered by the 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 the LandsD.

Traffic

9.1.2 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) The applicant should remind visitors to arrive the Site by public transport services.

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

- (a) He has no comment from highways maintenance point of view as no vehicular access is proposed or to be granted under the application.
- (b) If the application is approved, the applicant should be reminded that the application is approved on the understanding that there is and will be no vehicular access to/from the Site.

Nature Conservation

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

- (a) The eastern portion of the Site is paved while the remaining area is disturbed and dominated by a weedy tree species. Noting that the Site falls within the "R(D)" zone, she has no adverse comment on the application from nature conservation point of view.
- (b) Should the application be approved, the applicant is advised to implement appropriate measures to avoid causing pollution and disturbance to the watercourse to the south.

Environment

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

- (a) Provided that heavy vehicles and dusty operation are not expected and the applicant would minimise any noise from the proposed use such as prohibiting the use of loudspeakers so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.

- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP") to minimise any potential environmental nuisance.
- (c) One substantiated environmental complaint on waste issue pertaining to the Site has been received in the past three years.

Drainage

9.1.6 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 submit a drainage proposal including the mitigation measures for the proposed land filling works, to implement and maintain the proposed drainage facilities to his satisfaction.

Landscaping

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

- (a) The Site is formed with some trees of weedy species *Leucaena leucocephala* located at the northwestern portion of the Site. In consideration of the approved Application No. A/YL-LFS/323 for temporary hobby farm use to the immediate north of the Site, the proposed use is not incompatible with the surrounding landscape character.
- (b) 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 relevant authority for approval if necessary.

Building Matters

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

- (a) Before any new building works (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 Building Authority 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 BD to effect their removal in accordance with the prevailing 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 (B(P)R) respectively.
- (d) The Site does not abut on a specified street of not less than 4.5 m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R 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 in principle to the proposal subject to fire service installations (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. In addition, the applicant should also be advised on the followings points:
 - i. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - ii. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

9.1.10 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 surroundings.

- (b) Proper license / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene 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 Comment

9.1.11 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

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

10. Public Comments Received During Statutory Publication Period

On 29.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 20.12.2019, three public comments from members of the public were received (**Appendices IIIa, IIIb and IIIc**) objecting to the application on the reasons of possible environmental and traffic problems, and nuisance to the surrounding residents.

11. Planning Considerations and Assessments

11.1 The Site is proposed for temporary place of recreation, sports or culture for a period of 3 years and land filling. The Site is zoned "R(D)" on the OZP. The planning intention of "R(D)" zone primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed temporary place of recreation, sports or culture for a period of 3 years and land filling are not in conflict with the planning intention of the "R(D)" zone and would not jeopardise the long term development of the Site.

- 11.2 The Site is located in an area predominantly rural in setting. The proposed temporary place of recreation, sports or culture development is therefore not incompatible with the general character of the area.
- 11.3 There is no objection/adverse comments from Government departments concerned, including DEP, DAFC, CHE/NTW of HyD, C for T, CE/MN of DSD and CTP/UD&L of PlanD. The proposed development is not expected to generate significant environmental, ecological, traffic, drainage and landscape impacts on the surrounding areas. To minimise 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 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised 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 minimise the possible environment impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved a similar application for proposed temporary place of recreation, sports or culture use (hobby farm) (Application No. A/YL-LFS/323) to the immediate north of the Site within the same “R(D)” zone. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 There are 3 public comments objecting to the application as summarized in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the proposed temporary place of recreation, sports or culture for a period of 3 years and land filling.
- 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 17.1.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 5:00pm to 10:00am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no use of public announcement system and no camping activity, as proposed by the applicant, are allowed on the Site during the planning approval period;
- (c) the submission of a drainage proposal including the mitigation measures for the proposed land filling works 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 **17.7.2020**;

- (d) in relation to (c) above, the implementation of the drainage proposal including the mitigation measures for the proposed land filling works 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 **17.10.2020**;
- (e) in relation to (d) above, the implemented drainage facilities and the mitigation measures for the proposed land filling works on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a 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 **17.7.2020**;
- (g) in relation to (f) above, the implementation of the 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 **17.10.2020**;
- (h) if any of the above planning conditions (a), (b) or (e) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning conditions (c), (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 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 "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification 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 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 20.11.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further information on loading/unloading arrangement received on 31.12.2019
Appendix Ic	Further information clarifying the operation hours received on 8.1.2020
Appendix II	Similar Application within the Same “R(D)” Zone on the approved Lau Fau Shan and Tsim Bei Tsui OZP
Appendices IIIa to IIIc	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan with Local Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Paved Area Ratio Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2020**