

APPLICATION FOR PERMISSON
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/380

- Applicant** : Mr. CHEN Zou Dian represented by Metro Planning & Development Company Limited
- Site** : Lot 586 in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 770 m²
- 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 proposed 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 the “GB” zone, ‘Place of Recreation, Sports or Culture’ use is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, fenced-off and covered with grass (**Plan A-4**). There is no previous planning application covering the Site.
- 1.2 According to the applicant, the Site is accessible from Deep Bay Road via a local access road (**Drawing A-1, Plans A-1 and A-3**). The ingress/egress point is located at the south-eastern boundary of the Site (**Drawing A-2 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-2** and indicated in the submission, 3 single-storey structures with a total floor area of about 88 m² and building height of not more than 4.5 m are proposed, including an open shed for rain shelter and storage of farm tools, a toilet and a meter room. About 500 m² of the Site (65%) will be proposed for hobby farm (cultivation) use. The applicant also proposes to grass the footpath as well as the parking and manoeuvring spaces (about 182 m² or 24% of the Site). 2 parking spaces for private car are proposed. The operation hours of the

proposed development will be from 9:00 a.m. to 7:30 p.m. daily. The proposed development will serve at most 8 persons per day with prior appointment. The proposed vehicular access plan, layout plan and drainage plan are at **Drawings A-1 to A-3** respectively.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 13.11.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 11.12.2020 **(Appendix Ia)** responding to the comments of the Commissioner for Transport (C for T)
(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 at **Appendices I and Ia**. They are summarized as follows:

- (a) The proposed development is a passive recreational outlet providing farming experience to its visitors, which is in line with the planning intention of the “GB” zone. Similar application within the “GB” zone has been approved by the Board. Moreover, the idle site would be better utilized and managed in the form of commercial operation.
- (b) The proposed development is 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 it is compatible with the surrounding environment which comprises vacant land; and the access and parking arrangement would not adversely affect any trees.
- (c) The proposed development will accommodate a maximum of 8 visitors and 2 private cars each day. Public announcement system will not be used and there will be no operation during sensitive hours. No site formation will be carried out and a drainage proposal is also submitted to support the application. Hence, the potential traffic, noise, environmental and drainage impacts to the surrounding areas will be minimal.

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 site notice and sending notice to the Ping Shan Rural Committee by a registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

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) are relevant to the application. The relevant assessment criteria are summarised as follows and detailed at **Appendix II**.

- (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) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. 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;
- (e) 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;
- (f) 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; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

5. Background

The Site is not subject to planning enforcement action. However, the Site was involved in a previous enforcement case (No. E/YL-LFS/488) for unauthorized development (UD) of storage use and parking of vehicles. Enforcement Notice (EN) was issued and Compliance Notice (CN) for the EN was issued upon discontinuation of the UD. Reinstatement Notice (RN) was issued requiring the land owners to remove the leftovers, debris and fill materials as well as to grass the land and CN for the RN was issued on 9.11.2020 upon reinstatement of the Site.

6. Previous Application

The Site does not involve previous planning application.

7. Similar Applications

- 7.1 There are 14 similar applications (No. A/YL-LFS/39, 56, 63, 86, 135, 166, 172, 278, 302, 304, 311, 343, 344 and 366) within/straddling the same “GB” zone, in which 12 applications were approved by the Committee/Board and 2 were rejected. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 7.2 The 2 rejected applications involved more or less the same site (**Plan A-1**). Application No. A/YL-LFS/302 for proposed temporary place of recreation, sports or culture (hobby farm and fishing ground) was rejected by the Committee on 8.12.2017. Application No. A/YL-LFS/344 for proposed temporary place of recreation, sports or culture (fishing ground) was rejected by the Committee on 2.8.2019. The rejection reasons for these 2 applications mainly included not in line with the planning intention of the “GB” zone, not complying with the TPB PG-No. 10 in respect of extensive hard paving/clearance of natural vegetation or affecting the natural landscape, not complying with the Town Planning Board Guidelines for “Application for Development within Deep Bay Area” (TPB PG-No.12C) in that it would affect the ecological integrity of the existing fish pond.
- 7.3 For the 12 approved applications, they covered 8 sites (**Plan A-1**). Application No. A/YL-LFS/39 for proposed recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, public car park and ancillary uses at a site partly zoned “GB” and partly zoned “Village Type Development” was approved with conditions by the Committee on 14.5.1999 mainly on the considerations of the applied use primarily rural in character and not affecting natural landscape, no filling of existing pond, compatible with the surrounding land uses and no adverse environmental and traffic impacts.
- 7.4 Application No. A/YL-LFS/56 for proposed recreational development including garden, fishing ground, barbecue spot, refreshment kiosk, public car park with ancillary facilities was approved with conditions by the Committee on 28.7.2000 mainly on the considerations of in line with the planning intention of the “GB” zone, compatible with the surrounding environment, no significant traffic and environment impacts to the area and no adverse departmental comments. However, the approved development had not been implemented and the planning permission lapsed on 29.7.2003.
- 7.5 Applications No. A/YL-LFS/63, 86 and 135 covered the same site for refreshment kiosk with ancillary car park use. They were approved/approved upon review with conditions by the Committee/Board between 2001 and 2005 each for a period of 1 year or 3 years on the considerations of not incompatible with the surrounding rural area, no major adverse comments from concerned departments, and imposing relevant approval conditions to address technical concerns. However, the planning permission of application No. A/YL-LFS/135 was revoked on 20.12.2005 due to non-compliance with approval conditions.
- 7.6 Application No. A/YL-LFS/166 for temporary hobby farming (organic farm and education centre) for a period of 3 years was approved by the Committee

on 14.12.2007 on the considerations of not in conflict with the planning intention of the “GB” zone, compatible with the rural character of the area and no significant traffic and environmental impacts expected. The planning permission was revoked on 14.9.2008 due to non-compliance with approval conditions.

7.7 Applications No. A/YL-LFS/172 and 304 covered the same site for similar proposed recreational uses (including barbecue spot, refreshment kiosk, hobby farming, children playground and ancillary public car park) were approved with conditions by the Committee on 7.3.2008 and 6.4.2018 (with the latter one for 3 years) mainly on the considerations that the proposed uses were compatible with the surrounding land uses, not in conflict with the planning intention of the “GB” zone, in line with the TPB PG-No.10, no significant traffic and environmental impacts on the surrounding areas, no adverse departmental comments, addressing departmental concern by imposing approval conditions and in line with the Committee’s previous decisions. Both of the approved developments had not been implemented. Application No. A/YL-LFS/172 lapsed on 8.3.2012 while the planning permission of application No. A/YL-LFS/304 was revoked on 6.1.2020 due to non-compliance with approval conditions.

7.8 Applications No. A/YL-LFS/278, 311, 343 and 366 covered three different sites but of same use for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years were approved by the Committee on 29.11.2015, 3.8.2018, 5.7.2019 and 6.11.2020 respectively, on similar considerations as application No. A/YL-LFS/166. However, the planning permissions of applications No. A/YL-LFS/278 and 311 were revoked on 8.1.2016 and 3.11.2019 respectively due to non-compliance with approval conditions.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently vacant, fenced-off and covered with grass. An open shed is erected in the southern part of the Site; and
- (b) accessible via a local access road from Deep Bay Road (**Plan A-2**).

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

- (a) to its east and northeast are a knoll and some graves;
- (b) to its south and southeast are a warehouse, unused land and vacant land/structures; and
- (c) to its west across an unused land and Deep Bay Road are graves, unused land and vacant land in an area zoned “Coastal Protection Area” on the OZP.

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 summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) Should planning approval be given to the planning application, the lot owner(s) of the lot will need to apply to his office for permitting the structures to be erected or to regularize any irregularity on 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. Applications 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 applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of rent 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 space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)’s purview. The applicant shall obtain consent of the owners/managing departments of the local track

for using it as the vehicular access to the Site.

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 TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

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

- (a) No environmental complaint pertaining to the Site has been received in the past three years.
- (b) The proposed development includes recreational uses within Deep Bay Buffer Zone 1. According to Item P.1, Part I of Schedule 2 of the Environmental Impact Assessment Ordinance (EIAO), “A residential or recreational development, other than New Territories Exempted Houses, within Deep Bay Buffer Zone 1 or 2” is a Designated Project (DP). An Environmental Permit is required for construction and operation of a DP under the EIAO.
- (c) Whilst he has no objection to the application, the applicant is reminded to go through the statutory process under the EIAO for the construction and operation of the proposed development and to conduct further assessments to confirm the environmental acceptability of the proposed development under the statutory EIAO process.
- (d) The applicant should be reminded of his detailed comments at **Appendix V**.

Landscaping

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

- (a) According to the site photos on 20.11.2020, the Site is a vacant grassland with an open shed erected on the southern portion of the area. No existing tree or other significant landscape resource is observed within the Site. The Site is located in an area of rural coastal plain landscape character predominated by warehouses, vacant land, open storage yards, graves and tree clusters. The proposed development is considered not incompatible to the

landscape character of the surrounding area.

- (b) With reference to the proposed layout plan, a farmland of 500m² (around 65% of the Site) along with ancillary open shed for storage and car parks are proposed. However, according to the aerial photos from 2014-2020, vegetation clearance, hard paving and storage had been observed at the Site. Adverse landscape impact has taken place. Approval of the planning application would encourage similar site alteration prior to obtaining planning approval within the area. The cumulative impact of which would result in further degradation of the landscape quality of the surrounding environment in the “GB” zone. Hence, she has reservation to the application from landscape planning perspective.

Drainage

10.1.6 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 application be approved, 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 his satisfaction.
- (c) The applicant should be reminded of his detailed comments at **Appendix V**.

Fire Safety

10.1.7 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 his satisfaction.
- (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 applicant should be reminded of his detailed comments at **Appendix V**.

Building Matters

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comment on the suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) The applicant should be reminded of his detailed comments at **Appendix V**.

Nature Conservation

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

The Site falls entirely within the “GB” zone. She notes that the Site was vegetated in 2011 but had been paved in 2012. She trusts that the Board will take into account the history of the Site and consider whether the application is in line with the planning intention of “GB” zone.

Geotechnical

10.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) She has no adverse comment on the application.
- (b) The applicant is advised to submit the proposed building works to BD for approval as required under the provisions of the BO.

District Officer's Comments

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

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

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

- (a) Project Manager (West), CEDD (PM(W), CEDD);
- (b) Principal Project Coordinator/Special Duty, DSD (PPC/SD, 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 20.11.2020, the application was published for public inspection. During the statutory public inspection period, 5 public comments were received from the World Wide Fund for Nature Hong Kong, the Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited, Hong Kong Bird Watching Society and an individual (**Appendices IV-1** and **IV-5**). The first 2 raised concerns that the proposed development may associate with “destroy first, development later” practice and the history of the Site should be examined. The other 3 objected to the application on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; the proposed use will lead to degradation of the natural environment; the Board should not encourage “destroy first, build later” attitude; and approval of the application would set an undesirable precedent for similar applications.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years at the Site zoned “GB” on the OZP. The planning intention of “GB” zone 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. According to the applicant, the proposed development is mainly intended to provide farming experiences to the visitors and no site formation will take place at the Site. As shown on the proposed layout plan (**Drawing A-2**), about 65% of the Site (500 m²) is proposed for farming purpose while about 24% of the Site (182 m²) will be grassed for footpath as well as the parking and manoeuvring spaces. The remaining area (88 m² or about 11% of the Site) will be occupied by three temporary structures for ancillary uses including rain shelter and storage of farm tools, toilet and meter room. In view of the above, the proposed development as a passive recreational use is considered not in conflict with the planning intention of the “GB” zone.
- 12.2 The Site is situated in an area of rural coastal plain landscape character predominated by warehouses, vacant land, open storage yards, graves, tree clusters and some temporary structures (**Plan A-2**). The proposed development is considered not incompatible with the surrounding environment.
- 12.3 According to the TPB PG-No.10, there is a general presumption against development within the “GB” zone. New development will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration. The development should not affect the existing natural landscape. In this regard, as mentioned in paragraph 12.1 above, more than half of the Site (about 65%)

is proposed for hobby farming (cultivation) purpose and no site formation will be carried out at the Site. Though CTP/UD&L of PlanD has reservation to the application from landscape planning perspective as vegetation clearance, hard paving and storage had been observed at the Site from 2014-2020, it is noted that the Site is currently covered with grass (**Plan A-4**) and the scale, intensity, design and layout of the proposal is considered not incompatible with the surrounding areas. As such, the proposed use is generally in line with the TPB PG-No.10.

- 12.4 Other relevant departments including DAFC, DEP, C for T, CE/MN of DSD and D of FS have no objection to/adverse comment on the application on the nature conservation, environmental, traffic, drainage and fire safety aspects. 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 UD 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 in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee/the Board has approved 12 similar applications within the same “GB” zone for recreational use. Approval of the current application is in line with the Committee/Board’s previous decisions.
- 12.6 There are 5 public comments raising concerns on/objecting to the application on the grounds as summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 **8.1.2024**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no site formation, as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation between 7:30 pm and 9:00 am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no use of public announcement system, as proposed by the applicant, is

allowed on the Site during the planning approval period;

- (d) no vehicle is allowed to queue back to and/or reverse onto/from the public road at any time during the planning approval period;
- (e) the implementation of the accepted 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 **8.10.2021**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **8.7.2021**;
- (h) in relation to (g) 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 **8.10.2021**;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (f) 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;
- (j) if any of the above planning conditions (e), (g) or (h), is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (k) upon 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 proposed 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 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 13.11.2020
Appendix Ia	FI received on 11.12.2020
Appendix II	Relevant Extracts of TPB PG-No. 10
Appendix III	Similar applications within/straddling the same “GB” zone
Appendices IV-1 and IV-5	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Location Plan with Proposed Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**