

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/272

<u>Applicant</u>	: Fruit Garden Social Enterprise Limited
<u>Site</u>	: Government Land (GL) in D.D. 104, Ha Chuk Yuen Tsuen, San Tin, Yuen Long (Former Chuk Hing Public School)
<u>Site Area</u>	: About 1,700m ²
<u>Land Status</u>	: GL
<u>Plan</u>	: Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Field Study Centre and Organic Farm for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the existing 1 to 2 storeys vacated school building (i.e. the former Chuk Hing Public School which has been closed since February 1997) at the application site (the Site) for proposed temporary field study centre and organic farm for a period of 3 years. The Site falls within an area zoned “V” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.2 The Site is subject of 2 previously approved applications (Nos. A/YL-MP/6 and 35) on larger sites for recreation centre, and school for professional training and development of church leaders and pastors respectively. The applications were submitted by different applicants (**Plan A-1**) and were approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 2.8.1996 and 13.11.1998 respectively. Both planning permissions had already lapsed.

- 1.3 As shown on **Plan A-2**, the Site is accessible from the southeast off Castle Peak Road - Tam Mi. No car parking or loading/unloading areas will be provided within the site. The major development parameters are as follows:

Major Development Parameter	Current application (No. A/YL-MP/272)
Development Use	Proposed temporary field study centre and organic farm for a period of 3 years
Site Area	1,700m ² of GL
Total Floor Area	894.5m ²
No. of Existing Buildings	4
Height of Buildings	3.5 - 6m (1- 2 storeys)
Operation Hours	10:00a.m. to 6:00p.m. on Tuesdays to Sundays (use of the premises will require advanced booking)

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

- (a) Application Form received on 17.5.2018 **(Appendix I)**
- (b) Further information (FI) received on 7.6.2018 clarifying the height of the building on-site (*accepted and exempted from publication and recounting requirements*) **(Appendix Ia)**
- (c) FI received on 13.6.2018 providing response to DEP's comments (*accepted and exempted from publication and recounting requirements*) **(Appendix Ib)**
- (d) FI received on 26.6.2018 providing response to C for T's comments (*accepted and exempted from publication and recounting requirements*) **(Appendix Ic)**
- (e) FI received on 28.6.2018 clarifying the services provided by the applicant; the proposed access arrangement; the activities to be provided and the anticipated patronage at the Site (*accepted and exempted from publication and recounting requirements*) **(Appendix Id)**
- (f) FI received on 3.7.2018 clarifying that renovation works would not affect the existing trees and tree preservation proposal will be submitted (*accepted and exempted from publication and recounting requirements*) **(Appendix Ie)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 9 of the application form at **Appendix I** and the FIs at **Appendices Ia to Ie**. They can be summarized as follows:

- (a) The applicant, Fruit Garden Social Enterprise Limited, is a charitable institution set up in 2013 to serve the New Territories West area and provides services including free wheelchair chauffeur service, family bonding and life education classes, etc.
- (b) The applicant will provide employment opportunities for the mentally and physically disabled persons and the underprivileged and employ them as their staff to help them integrate with the society.
- (c) The applicant will introduce organic hydroponic cultivation at the Site to help bring families together and allow the elderly to get a feel of modern agricultural practices. In addition, there will be services provided at the Site including classes on life education for youths, training classes for new dog owners and craft making classes for nearby villagers, etc.
- (d) There will be, in general, a maximum of 30 persons at the Site at a time. Any event organized during the public holidays will have no more than 200 people. Visitors will arrive on foot or by public transport. There are no car parks on-site and no adverse traffic impact is expected.
- (e) For dog training activities, they will be held indoor at Block C twice monthly during day time with an average of 15 dogs or less per session. No dogs will stay overnight at the Site after the training.
- (f) No existing trees on-site will be affected and a tree preservation proposal will be submitted for consideration.

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

The Site involves GL only. As such, the “Owner’s Consent/Notification” Requirements as set out in “Town Planning Board Guidelines on Satisfying the ‘Owner’s Consent/Notification’ Requirements under Section 12A and 16 of the Town Planning Ordinance” (TPB PG-No. 31A) are not applicable to the application.

4. Town Planning Board Guidelines

According to 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), 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.

5. Background

- 5.1 The Site is not subject to any active enforcement action.
- 5.2 The Site is one of the vacant school premises available for application (to District Lands Office) by non-governmental organisations for rent of the premises for community, institutional or non-profit making purposes on short term basis.

6. Previous Applications

- 6.1 The Site is subject of 2 previously approved applications (Nos. A/YL-MP/6 and 35).
- 6.2 Application No. A/YL-MP/6 submitted by a different applicant for recreation centre was approved by the Board on review on a temporary basis for a period of 5 years on 2.8.1996 with conditions. Approval of the application was mainly on the consideration that the application would make use of existing structures, which would otherwise remain vacant and unattended, and for the benefit of the local community. The planning permission had lapsed on 2.8.1998.
- 6.3 Application No. A/YL-MP/35 submitted by a different applicant for school of professional training and development of church leaders and pastors was approved by the Committee with conditions on 13.11.1998 mainly on the consideration that the proposed development is compatible with the surrounding area, relevant Government departments have no objection to or adverse comment on the application and the school premises left abandoned for a period of time are sub-standard and could be considered for other uses. Application for occupation of GL by the applicant was rejected by DLO/YL, LandsD on the grounds that local objections could not be addressed. The planning permission had lapsed on 13.11.2001.
- 6.5 Details of the application are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

7. Similar Applications

There is no similar application in the same “V” zone.

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

8.1 The Site is:

- (a) occupied by the former Chuk Hing Public school which has been closed and remained vacant since February 1997. The 4 existing school buildings of 1 to 2 storeys on-site are currently vacant;
- (b) located near Chuk Yuen Tsuen of San Tin Heung;
- (c) accessible from a local track at the southeast connecting to Castle Peak Road - Tam Mi; and
- (d) located within the WBA of Deep Bay.

8.2 The Site is located in a village settlement and the surrounding areas are mainly residential in character. There are also some vehicle parking, storage yards and vehicle workshops which are suspected unauthorised developments subject to enforcement by the Planning Authority:

- (a) to the north and west are a residential care home (under approved Application No. A/YL-MP/214), a vehicle park, vacant land and Ha Chuk Yuen Road. Further north across Ha Chuk Yuen Road are vacant land and fallow agricultural land;
- (b) to the east are a vehicle park, storage yards, vehicle workshop, vehicle repair workshop, an elderly home and residential dwellings. Further east across Castle Peak Road - Tam Mi are parking of container vehicles and trucks; and
- (c) to the south are residential dwellings, unused land, a shrine, a latrine and an electricity substation approved under Application No. A/YL-MP/240.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

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 is located on unleased/unallocated GL.
- (b) No permission is given for occupation of GL (about 1,700m² 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 to Castle Peak Road - Tam Mi through both GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) According to his record, there is no Small House application currently under processing and no approved Small House application within the Site. For area in vicinity, there is one approved Small House application but no application currently under processing.
- (f) Should planning approval be given to the planning application, the applicant has to apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by the LandsD acting in the capacity as landlord 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 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) The Site is connected to the public road network via a section of local access which is not managed by Transport Department. The land status of the local access road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

- (b) Should the application be approved, the following conditions should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) His department does not and will not maintain any access connecting the Site and Castle Peak Road - Tam Mi as well as Ha Chuk Yuen Road. Presumably, the relevant department will provide their comments, if any; and
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazetted railway schemes, nor railway protection boundary of heavy rail systems. As such, he has no comments on the subject from railway development viewpoint.

Environment

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

The applicant stated in the FI that, if dog training activities are organized, the dogs will not stay overnight; the dogs will stay inside the building; the number of dogs is limited to fifteen for each activity; and the activities will be organized in daytime only. Based on the above, he has no major comment on the application.

Nature Conservation

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

He has no adverse comment on the application from nature conservation point of view as the Site is a former school site and is at certain distance from the WCA. Nevertheless, should the application be approved, the applicant should ensure that the proposed development will not affect the existing trees on-site.

Landscaping

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

- (a) The Site falls within an area zoned “V” in Yuen Long. The Site was involved in 2 previous applications (Nos. A/YL-MP/6 and 35) respectively for recreation and social welfare use to which he had no objection from landscape planning perspective.
- (b) It is noted that the surrounding is of rural landscape character comprised of village houses, fallow and active agricultural land and tree groups. According to his site inspection on 4.6.2018, the Site has been abandoned for years. 4 existing buildings and a number of mature trees with fair to good condition are found within the Site.
- (c) According to the submission of the application, no detailed development proposal for the proposed use is provided. As the school buildings are in deteriorated condition, extensive renovation works are anticipated. Given that mature trees within the Site have not been attended to for years, their potential risk to users have to be assessed. Moreover, it is not certain if adverse impact on existing trees will be arisen from renovation work of the buildings. On this, the applicant has committed that should the application be approved, they will submit and implement a tree preservation proposal ensuring that no trees would be affected during renovation of the Site. In view of this, he has no objection to the application on consideration that no felling of existing tree will be involved.
- (d) Should the application be approved by the Board, the following approval condition is recommended to be included:

Submission and implementation of tree preservation proposal to the satisfaction of the Director of Planning or of the Board.

Drainage

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

On the basis of information provided, the proposed development would mainly involve proposed usage inside the existing premises and the intended functions of the existing drainage facilities would not be affected. Therefore, he has no comment on the application from public drainage point of view. The applicant is requested to maintain the existing drainage facilities on-site.

Fire Safety

10.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations being provided to the satisfaction of D of FS.

- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

As the building is located on GL, he is not in the position to provide comment under the Buildings Ordinance.

Others

- 10.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
- (b) Proper licence / permit issued by his Department is required if there is any food business / catering service / activities regulated by him under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (c) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

District Officer's Comments

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

His office has no comment on the application and the local comments should be submitted to the Board directly, if any.

- 10.2 The following government departments have no objection to or no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Leisure and Cultural Services (DLCS);

- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comments Received During Statutory Publication Period

On 25.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 15.6.2018, four objecting public comments were received (**Appendix III**) from a Yuen Long District Councillor, the village representatives of Chuk Yuen Tsuen, the villagers of Ha Chuk Yuen Tsuen and a general public raising concern that the proposed use would increase traffic flow of the nearby local tracks and Castle Peak Road - Tam Mi and would lead to traffic congestion; the application will adversely affect the tranquility and livelihood of the nearby villages as it is too close to village settlement; and more information should be provided on the application.

12. Planning Considerations and Assessments

- 12.1 The Site is currently occupied by the vacated school premises of the former Chuk Hing Public School which has been closed and left vacant since February 1997. The applicant proposes to use the existing school buildings at the Site for proposed temporary field study centre and organic farm for a period of 3 years.
- 12.2 The Site falls within “V” zone which is primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. While the proposed use is not entirely in line with the planning intention of the “V” zone, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “V” zone as there is no immediate development proposal for the Site. According to DLO/YL of LandsD’s record, there is no Small House application currently under processing and no approved Small House application within the Site.
- 12.3 The proposed temporary field study centre and organic farm is accommodated within the existing vacated school buildings and is not incompatible with the land uses of the surrounding areas, which are mainly occupied by a mix of residential dwellings, elderly homes, agricultural land, vacant land and scattered vehicle parks, and rural workshops.

- 12.4 The Site falls within the WBA of the TPB PG-No. 12C. DAFC has no comment on the application from nature conservation point of view considering that the Site is a former school site, and is located at certain distance from WCA.
- 12.5 As the use of the vacant school buildings do not involve any building, site formation, land filling, excavation works nor felling of trees, it would unlikely cause adverse environmental impacts on the surrounding areas. Significant adverse drainage and traffic impacts on the surrounding area are not expected. Concerned Government departments including DEP, C for T, D of FS, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to the proposed use on environmental, traffic, fire safety, drainage and landscape aspects respectively. Their technical concerns could be addressed by approval conditions as recommended in paragraph 13.2 (e) to (i) below. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and requiring the maintenance of drainage facilities on-site and submission and implementation of tree preservation proposal are recommended in paragraphs 13.2 (a), (b), (d), (h) and (i) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site and submission of tree preservation proposal would be subject to enforcement action by the Planning Authority.
- 12.6 The Site is subject of 2 previous planning permissions for recreation centre and school for professional training and development of church leaders and pastors uses respectively, which are similar in nature (i.e. for education and community activities) as the current application. The applications were approved mainly on consideration that they were compatible with surrounding uses and could better utilize the site for the benefit of the local community. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 Four objecting public comments were received during the statutory public period on the grounds that the application will adversely affect the tranquil environment and livelihood of the nearby village, and would lead to traffic congestion in the area. In this regard, the planning assessments above are of relevance.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary field study centre and organic farm could be tolerated 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 6.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 10:00a.m., on Tuesdays to Sundays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Mondays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the site at any time during the planning approval period;
- (d) the maintenance of the existing drainage facilities on the site at all times during the planning approval period;
- (e) the submission of photographic records of the existing drainage facilities within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.10.2018;
- (f) the submission of water supplies for firefighting and fire service installations proposal within **6** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.1.2019;
- (g) in relation to (f) above, the provision of water supplies for firefighting and fire service installations within **9** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.4.2019;
- (h) the submission of a tree preservation proposal within **6** months to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (i) in relation to (h) above, the implementation of the tree preservation proposal within **9** months to the satisfaction of the Director of Planning or of the Town Planning Board by 6.4.2019;
- (j) if the above planning condition (a), (b), (c) or (d) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if the above planning condition (e), (f), (g), (h) or (i) 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 at **Appendix IV**.

- 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 “V” zone which is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. There is no strong planning justification in the submission for a departure from such 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 17.5.2018
Appendix Ia	Further Information received on 7.6.2018
Appendix Ib	Further Information received on 13.6.2018
Appendix Ic	Further Information received on 26.6.2018
Appendix Id	Further Information received on 28.6.2018
Appendix Ie	Further Information received on 3.7.2018
Appendix II	Previous s.16 applications covering the application site
Appendix III	Public comments received during statutory publication period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plan A-4a to 4b

Site Photos

**PLANNING DEPARTMENT
JULY 2018**