

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/283

<u>Applicant</u>	Senior Buddy Charity Farm Limited represented by R-riches Property Consultants Limited
<u>Site</u>	Lot 1644 S.C in D.D. 112, Shui Tsan Tin, Shek Kong, Yuen Long
<u>Site Area</u>	About 1,131m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 Years and Filling of Land

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 5 years (**Plan A-1**) and to fill the land which is required for the proposed structure (**Drawing A-2**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land. The Site is largely vacant and covered by grass, with a temporary structure at the western portion of the Site.
- 1.2 According to the applicant’s submission, a small part of the Site (about 90 m², equivalent to about 8% of the Site) is proposed to be filled up (by not more than 0.2m to raise the site level from about 19.3 mPD to about 19.5 mPD) and hard-paved for a single-storey temporary structure (of about 3.5m high with floor area of about 90m²) which will be used for agricultural education room, storage of farm tools, meter room and changing room (**Drawing A-1**), whereas the remaining part of the Site of about 1,041m² (about 92% of the site area) will be unpaved and occupied by plots of farmland and footpath (**Drawing A-2**). According to the applicant, the opening time is 9:00am to 7:00pm daily, including public holidays. There are no vehicular access to and no parking and loading/unloading space within the Site. The layout plan and paving ratio plan submitted by the applicant is at **Drawings A-1** to

A-2.

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

- (a) Application Form with Planning Statement received on 29.6.2020 **(Appendix I)**
- (b) Further information (FI) received on 17.8.2020 **(Appendix Ia)**
(exempted from publication)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**, and are briefly summarized as follows:

For proposed development

- (a) The proposed development is on a temporary basis for a period of 5 years and therefore will not jeopardize the long-term planning intention of the “AGR” zone. It is also considered not incompatible with the surrounding land uses. Upon the expiry of the planning permission, the Site will be reinstated to an amenity area, and this would not set an undesirable precedent.
- (b) The proposed development is intended to serve as an eco-education farm to enhance the public awareness about the importance of agriculture and to promote sustainable agricultural development in Hong Kong. Their major target groups include elderly and retired persons.
- (c) In terms of the farm operation, the estimated number of visitors would be about 10 and 20 per day during weekdays and weekend respectively, and there will be two staff at the Site. Visitors and staff are required to walk for about 600m from Kam Sheung Road via a local trail to the Site (**Plan A-1**). Visitors are required to pre-book to enter the Site, and walk-in visitors will not be served. Large farm tools (e.g. rakes, forks and shovel) will be stored at the proposed storage structure, and goods (e.g. soil and seed) will be transported by trolley or hand-carried by staff to the Site from Kam Sheung Road. Since there is no vehicular access to the Site and no parking space will be provided within the Site, no adverse traffic impact is envisaged due to the proposed use. In addition, there are no loudspeakers, audio amplifiers and public announcement system to be installed within the Site to minimise noise nuisances to the surroundings.
- (d) The applicant would follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs) issued by the Environmental Protection Department (EPD) in order to minimize all possible environmental impacts to the nearby sensitive receivers within the neighbourhood. The applicant will also assess the ecological impact generated from the proposed development and provide mitigation measures to minimize adverse impact to the surrounding natural habitat.
- (e) In response to the public comments as stated in paragraph 10 below, the excavation work carried out under the approved application (No. A/YL-SK/261) (**Plan A-1**) was

to break up the hard soil surface, and loosen and turn the soil before seed sowing. This allows roots to penetrate deeper into soil and helps growth of earthworms in soil to promote organic farming. The applicant will also strictly follow the proposed scheme and ensure that no diversion of streams will be carried out at the Site.

For filling of land

- (f) Only about 8% of the Site (with land area of about 90m²) will be filled up by not more than 0.2m and hardpaved for the proposed structure. The footpath within the site will be on soil ground. The applicant will reinstate the Site to a condition suitable for agricultural use after the expiry of planning approval.

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

The applicant is not the current land owner but has complied with the requirements as set out in the Town Planning Board (TPB) 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 at the Site and sending notice to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any active planning enforcement action.

5. Previous Application

There is no previous application in respect of the Site.

6. Similar Applications

6.1 There are two similar applications (No. A/YL-SK/229 and 261) for temporary place of recreation, sports or culture (hobby farm) use within the same “AGR” zone on the OZP, which were submitted by the same applicant of the current application and approved by the Rural and New Town Planning Committee (the Committee) in 2017 and 2019. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

6.2 The above two applications for temporary hobby farm use for a period of 3 years (not involving filling of land) (No. A/YL-SK/229) and for a period of 5 years (with filling of land) (No. A/YL-SK/261) were approved with conditions by the Committee on 10.11.2017 and 4.10.2019 respectively on the similar considerations that the development would not jeopardize the long-term planning intention of the “AGR” zone; it was not incompatible with the surrounding environment; relevant Government departments consulted had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval of the former application (No. A/YL-SK/229) was revoked on 10.2.2019 due to

non-compliance with approval conditions in relation to the submission and implementation of drainage proposal, and implementation of landscape proposal and fire services installations proposal.

7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

7.1 The Site is:

- (a) largely vacant and covered by grass, with a temporary structure at western portion of the Site; and
- (b) accessible via a local trail of about 600m in length from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character mainly occupied by active/fallow farmland at all the four sides of the Site, intermixed with some residential structures/dwellings at the northeast and east of the Site within the “Village Type Development” (“V”) zone. A temporary hobby farm under an approved application No. A/YL-SK/261 is located to the south of the Site.

8. **Planning Intention**

8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, planning permission from the Board is required for such activities.

9. **Comments from Relevant Government Departments**

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

Land Administration

9.1.1 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; and
- (b) should the planning approval be given to the planning application, the lot owner(s) will need to apply to DLO/YL, LandsD to permit the

structure(s) to be erected or regularize any irregularities 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 as 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 rent or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

he has no comment on the application considering that there is no parking provision or vehicular access to the Site and the induced traffic impact is minimal, as indicated by the applicant.

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

he has no comment on the application from highways maintenance point of view, noting that no vehicular access is proposed or to be granted under the application.

Agriculture and Nature Conservation

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

- (a) the Site falls within “AGR” zone and possesses potential for agricultural rehabilitation. He has no strong view against the application for the proposed use and land filling from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon the expiry of the planning permission; and
- (b) the Site is partly bare and partly covered with weeds, with a natural watercourse to the north and west of the Site (**Plan A-2**). Having regard to the FI (**Appendix Ia**) that no entry signs will be erected and no pesticide will be used so that adverse impacts to the natural watercourse would not be anticipated during operation, he has no comment on the application from nature conservation point of view. Nevertheless, the applicant is reminded to propose measures to avoid the construction activities (such as land filling for site formation of the proposed structure), surface run-off during construction, etc. from adversely affecting the natural watercourse.

Landscape

9.1.5 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has no objection to the application from landscape planning perspective;
- (b) based on the aerial photo taken on 29.9.2019, the Site is situated in an area of rural landscape character comprising scattered trees, temporary structures, active and abandoned farmland. The proposed use is considered not incompatible with the landscape character of the area; and
- (c) with reference to the site inspection on 17.7.2020, the Site is vacant and one temporary structure is found within the Site. No existing tree is found within the Site. Significant adverse impact on landscape resources arising from the development is not anticipated.

Environment

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

- (a) he has no objection to the application from environmental planning perspective, provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause adverse environmental nuisance to nearby sensitive receivers;
- (b) the applicant is advised to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; and effluent discharges from the Site are subject to control under the Water Pollution Control Ordinance. If connection to public sewers is not feasible, septic tank and soakaway system can be used. Its design, construction and operation should follow his department’s requirements of Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test, with certification by the Authorized Person; and
- (c) there is no substantiated environmental complaint received by DEP in the past three years.

Drainage

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

- (a) he has no objection in-principle to the proposed development from public drainage point of view; and

- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

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 (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator 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; and
- (d) the Site does not abut on a specified street of not less than 4.5m 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 being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations to be installed should be clearly marked on the layout plans; and

- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

9.2 The following Government departments have no objection to/adverse comment on the application.

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 7.7.2020, the application was published for public inspection. During the three-week statutory publication period, a total of 49 public comments were received from two Village Representatives, Village Committee Chairperson and 43 residents of Shui Tsan Tin Tsuen (in two standard letters format), Hong Kong Bird Watching Society and two individuals (**Appendix III**). They object to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone and would set an undesirable precedent to the future development; it will attract more visitors, creating nuisance to the village environment and adversely affecting the security of the nearby villages; it will create traffic safety concerns to the villagers and bring about dust, flooding, ecological problem and other environmental nuisance to the neighbourhood and natural habitat; and the hobby farm currently operated by the same applicant (under application No. A/YL-SK/261) has been continuously engaged in land excavation and diversion of streams, which do not conform with the planning approval conditions.

11. Planning Considerations and Assessment

11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) at the Site for a period of 5 years, with filling of land at a small part of the Site (about 8%) (**Drawing A-2**) by not more than 0.2m. The planning intention of the "AGR" zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. According to the applicant, the proposed development is intended to serve as an eco-education farm to enhance the public awareness about the importance of agriculture and to promote

sustainable agricultural development in Hong Kong. The proposed use is generally not in conflict with the planning intention of the “AGR” zone, and the majority of the Site (about 92%) will not involve filling of land and remain unpaved for farmland and footpath. DAFC has no strong view on the application from the agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The proposed temporary hobby farm with only one single-storey structure is not incompatible with the surrounding environment which is mainly occupied by active/fallow farmland and residential structures/dwellings (**Plan A-2**). According to the applicant, the estimated number of visitors would be about 10 and 20 per day during weekday and weekend respectively, and there will be only two staff at the Site. There are no vehicular access to the Site and no parking and loading/unloading space at the Site. C for T, DEP, CE/MN of DSD and CTP/UD&L of PlanD have no objection to/no comment on the application from traffic, environmental, drainage and landscape aspects. It is anticipated that the proposed development would not have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and prohibiting the use of public announcement system, portable loudspeaker or any form of audio amplification system are recommended in paragraphs 12.2 (a) and (b) below. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (g). Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP.
- 11.3 There are two similar applications for temporary hobby farm use within the same “AGR” zone which were submitted by the same applicant of the current application, which were approved by the Committee in 2017 and 2019. The Committee’s considerations on the two previous applications as stated in paragraph 6 are generally applicable to the current application and approval of this application is in line with the previous decisions of the Committee.
- 11.4 Regarding the 49 objecting public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department has no objection to the application.
- 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 5 years until 21.8.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the submission of 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 **21.2.2021**;
- (d) in relation to (c) above, the implementation of 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 **21.5.2021**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 **21.2.2021**;
- (g) in relation to (f) 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 **21.5.2021**;
- (h) if any of the above planning condition (a), (b) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice;
- (i) if any of the above planning condition (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; and
- (j) 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 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 "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other

agricultural purposes. No strong planning justification has been given in the submission to justify a departure from the 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Planning Statement received on 29.6.2020
Appendix Ia	Further information (FI) received on 17.8.2020
Appendix II	Similar Applications
Appendix III	Public Comment
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Paving Area Ratio Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos