

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

**APPLICATION NO. A/NE-HT/9**

- Applicants** : Mr. WONG Chun Kit and Ms. FUNG Chiu Han represented by R-riches Property Consultants Limited
- Site** : Lots 1091 RP, 1134 S.A, 1134 RP (Part), 1135 (Part), 1136 (Part), 1137, 1138 and 1157 (Part) in D.D. 76, Hok Tau, Fanling, New Territories
- Site Area** : 14,824 m<sup>2</sup> (about)
- Land Lease** : Block Government lease (demised for agricultural use)
- Plan** : Approved Hok Tau Outline Zoning Plan (OZP) No. S/NE-HT/5
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm, Barbecue Spot, Play Area, Handicraft Making and Refreshment Kiosk) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm, barbecue spot, play area, handicraft making and refreshment kiosk) for a period of three years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Hok Tau Outline Zoning Plan (OZP) No. S/NE-HT/5. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ and ‘Barbecue Spot’ are Column 2 uses in “AGR” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Site comprises two portions separated by a natural stream (**Plan A-2**). According to the applicants, about 70% of the Site at the northern part will be used as farm area and the remaining area mainly at the southern part will be a soiled ground area for site office, car park and other recreation activities (**Drawing A-1**). Besides, 12 temporary structures with a total floor area of about 866.25 m<sup>2</sup> and building height of about 2.6 m to 6 m (1 to 2 storeys) will be erected, including site office and refreshment kiosk, rain shelters for handicraft making workshop and barbecue spot, a farmer resting room, and a portable toilet at the western portion of the Site and a store room for farm tools at the eastern portion of the Site (**Drawing A-1**). Pedestrian access between the eastern and western portion is via an existing footbridge across the natural stream (**Plan A-4c**).

Fourteen private car parking spaces (measuring 5 m x 2.5 m each), 2 loading/unloading spaces for light goods vehicle (measuring 7 m x 3.5 m each) and 2 loading/unloading spaces for light bus (measuring 8m x 3m each) will be provided in the southern corner of the Site near ingress/egress (**Drawing A-1**). Pre-book shuttle bus services to/from the Site and Fanling Station would be provided. The Site is accessible via a local track leading to Hok Tau Road (**Plan A-2**).

- 1.3 The proposed operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Sundays including public holidays. The estimated number of visitors during weekdays and weekends are no more than 20 and 50 respectively. There will be around 8 staff working at the Site. Visitors are required to pay entrance fee to use the facilities in the proposed development. No public announcement system and loud speaker would be used at site. The site layout plan, landscape plan and plan showing areas using for farm and paved with soiled ground submitted by the applicants are at **Drawings A-1 to A-3** respectively. The Site is currently occupied by some temporary structures at the south and covered by natural vegetation at the north.
- 1.4 In support of the application, the applicants have submitted the following documents:
  - (a) Application Form with Attachments received on 26.6.2018 (**Appendix I**)
  - (b) Further Information received on 7.8.2018 (**Appendix Ia**)
  - (c) Letter dated 9.8.2018 requesting for deferment of (**Appendix Ib**)  
consideration of the application
  - (d) Further Information received on 16.10.2018 (**Appendix Ic**)
  - (e) Further Information received on 29.10.2018 (**Appendix Id**)
  - (f) Further Information received on 9.11.2018 (**Appendix Ie**)
  - (g) Further Information received on 14.11.2018 (**Appendix If**)
  - (h) Further Information received on 23.11.2018 (**Appendix Ig**)
- 1.5 On 17.8.2018, the Committee agreed, at the request of the applicants (**Appendix Ib**), to defer making a decision on the application for two months pending the preparation of further information to address the departmental comments. The applicants subsequently submitted further information and the application is rescheduled for consideration by the Committee on 7.12.2018.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in appendix I of the Application Form at **Appendix I** and further information at **Appendices Ia, Ic to Ig**. They can be summarised as follows:

- (a) the Site is currently vacant and mostly covered with grass. The proposed development will not involve filling or excavation of land;
- (b) the Site is accessible via Hok Tau Road leading to Lau Shui Heung Road. Pre-book shuttle bus services to/from the Site and Fanling Station, 14 parking spaces, 2 loading/unloading spaces for light goods vehicles and 2 loading/unloading spaces for light bus will be provided at the Site. Visitors have to make reservation of parking spaces with the operator, hence the adverse traffic impacts on the surrounding area will be minimised;

- (c) the operation hours of the proposed development are from 9:00 a.m. to 6:00 p.m. from Mondays to Sundays including public holidays. Visitors are required to pay entrance fee to use the facilities in the proposed development;
- (d) no loud speaker will be installed at the Site to minimise the impact of noise on the surrounding area;
- (e) to avoid pollution to the natural stream, no pesticide will be used in the proposed hobby farm and sewerage will be collected by septic tank. Besides, fencing will be erected 3m off the natural stream to prohibit visitors from reaching the stream;
- (f) the Site is set back 5m from the boundary of Pat Sin Leng Country Park and fence will be erected to prevent visitors of the proposed hobby farm to the country park to address the concern of the Director of Environmental Protection; and
- (g) in response to the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department, no building structure will be proposed in the “non-building” area (**Plan A-2**) where meet the alert criteria for a Natural Terrain Hazard Study.

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

The applicants are not “current land owners” but have 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 publishing a notice on local newspapers and sending the notice to the Fanling District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

The Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD) advises that the Site is not subject to any active or previous enforcement cases.

### **5. Previous Application**

There is no previous application for the Site.

### **6. Similar Applications**

6.1 There are two similar applications (No. A/NE-HT/5 and 6) for temporary place of recreation (barbecue areas, play area, handicraft making, refreshment kiosk and fishing ground) involving the same site within the “AGR” zone in the vicinity of the Site in the Hok Tau area (**Plan A-1**).

- 6.2 Application No. A/NE-HT/5 was approved with conditions by the Committee on 9.4.2010 mainly on the grounds that the proposed development was not significantly deviated from the planning intention of the “AGR” zone since a major part of the site would be used for growing of lavender plants and retained for fish ponds; the proposed development was not incompatible with the surrounding area; the proposed development would not cause adverse landscape and drainage impacts on the surrounding area; and the concerns of departments could be addressed by imposing approval conditions. The planning permission lapsed on 10.4.2013.
- 6.3 Application No. A/NE-HT/6, which is an application for renewal of planning approval of application No. A/NE-HT/5, was approved with conditions by the Committee on 15.3.2013 mainly on the grounds that the application generally complied with the Town Planning Board Guidelines No. 34B on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34B) in that there were no material changes in the planning circumstances since the previous approval was granted and all approval conditions under the previous application had been complied with. However, the planning permission was revoked in October 2013 due to non-compliance of approval conditions in relation to submission and implementation of proposed traffic management measures, drainage proposal, proposals for water supplies for fire-fighting and fire service installations and tree preservation and landscape proposals. According to the latest site inspection, the Site is no longer used for the applied use.
- 6.4 Details of these similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
7. **The Site and Its Surrounding Areas** (**Plans A-1 and A-2**, aerial photo on **Plan A-3** and site photos on **Plans A-4a to A-4d**)
- 7.1 The Site:
- (a) comprises two portions separated by a natural stream. Two portions are connected by an existing footbridge across the stream (**Plan A-2**);
  - (b) is largely covered by natural vegetation in the northern and centre parts of the Site (**Plans A-3 and A-4b to A-4d**);
  - (c) the southern part of the Site near the ingress/egress is paved and fenced off (**Plan A-4a**);
  - (d) several temporary structures are found at the southern and western parts of the Site (**Plan A-3**); and
  - (e) accessible via a local track leading to Hok Tau Road (**Plan A-2**).
- 7.2 The surrounding areas have the following characteristics:
- (a) to its immediate north is Pat Sin Leng Country Park (**Plan A-2**);
  - (b) to its immediate southeast and east are farm/garden, plant nurseries, active /

fallow agricultural land and temporary domestic structures; and

- (c) to its immediate west is vacant land with scattered tree groups, plant nurseries and an open storage yard.

## **8. Planning Intention**

The planning intention of the “AGR” zone in Hok Tau area is to primarily 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.

## **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/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access;
- (b) there are unauthorised structures erected on Lots 1091 RP and 1135 in D.D. 76 without prior approval from his Office. The total build-over area of the structures is larger than the one mentioned in the application. The structures are not acceptable under the lease concerned. His Office reserves rights to take necessary lease enforcement actions against the irregularities; and
- (c) should the application be approved, the owners of the lots concerned shall apply to his Office for a Short Term Waiver (STW) to regularise the illegal structures erected on the Site. The application for STW will be considered by Government in its landlord’s capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by his Office.

### **Agriculture and Nature Conservation**

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

- (a) on the understanding that substantial portion of the Site (about 70% of the Site) will be used for cultivation and no pavement of land is proposed, she has no strong view against the application from agriculture point of view;

- (b) the southern part of the Site is largely soiled ground and occupied by some structures. The remaining part of the Site is an abandoned agricultural land covered by grasses and herbaceous plants. A stream (**Plan A-1**) is located in between two portions of the Site, which eventually leads to the Tan Shan River Ecologically Important Stream (EIS). This part of the stream is rather natural with stream bank covered by vegetation and stream bed mainly comprised sand and rubble; and
- (c) it is noted that a 3m buffer from the stream will be provided and fenced off from visitors. Also, the Site in the vicinity of the stream will be used as farm. While he has no adverse comment on the application from nature conservation point of view, the applicants should be reminded to perform good site practice and prevent surface-run off and debris from polluting the stream. Should the application be approved, the applicants should put up sign(s) to remind visitors not to disturb the stream.

### **Traffic**

#### 9.1.3 Comments of the Commissioner for Transport (C for T):

based on the further information submitted by the applicants, she noted that parking spaces will be provided for light bus for the proposed pre-book shuttle service and the applicants shall be responsible for the management and maintenance of the traffic signs and road markings within the Site. She has no further comment on the application from the traffic engineering point of view.

#### 9.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no adverse comment on the application;
- (b) the section of Hok Tau Road adjacent to the Site is under HyD's purview. It is noted that the applicants have proposed a vehicular access road from Hok Tau Road routing through a portion of unallocated Government land to the Site. As part of the access road is on unallocated Government land which is outside HyD's jurisdiction, the maintenance responsibility of this part of access road should be sorted out with DLO/N, LandsD; and
- (c) should the application be approved, the applicants are required to submit details of the permanent run-in/out to his satisfaction. To re-construct the run-in/out, the applicants are required to apply for an excavation permit. Upon termination of the proposed development, the applicants are required to reinstate the run-in/out to its original state at their own cost.

### **Environment**

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

- (a) he has no objection to the application;

- (b) the Site is outside the boundary of Pat Sin Leng Country Park and is set back from the country park by 5m with fencing erected at the boundary to prevent visitors of the proposed hobby farm from reaching the country park. In view of the above, the proposed development would not constitute a designated project under the Environmental Impact Assessment Ordinance;
- (c) the Site is outside Water Gathering Ground. He has no objection to the proposal of using portable toilets to handle sewage from staff and visitors, and using septic tank and soakaway system (STS) to treat wastewater from barbecue site washing basins and other sources;
- (d) to avoid pollution to the streamcourse, apart from the provision of rubbish bins, the applicants should also install silt traps and rubbish traps at suitable intervals at the drainage channels surrounding the site to prevent surface runoff pollution to the streamcourse. The silt traps and rubbish traps should be regularly maintained to ensure proper functioning of these facilities;
- (e) there is no environmental complaints against the Site in the past three years; and
- (f) should the application be approved, the applicants are reminded that the design and construction of the STS should follow ProPECC PN5/93, including the requirement of Percolation Test and Minimum Clearance Distance of 30m away from the stream in question, and the STS design, construction and percolation test results shall be duly certified by an Authorized Person (AP). The applicants are also reminded of their obligation to comply with all environmental protection/ pollution control ordinances, in particular the Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses”.

### **Landscape**

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) according to the latest aerial photo of 2017, the Site is situated in an area of rural landscape character comprising of farmlands (both active and abandoned) and some big green houses. The proposed use is not entirely incompatible with the surrounding environment;
- (c) her site record in July 2018 reveals that:
  - (i) the eastern portion of the Site is abandoned farmland. Some young common trees and fruit trees are scattered along the boundary;

- (ii) the western portion is partly covered with natural vegetation and partly hard paved with large green houses/plant nursery (to the south). The Site is formerly used as a plant nursery. Accordingly to the layout plan, the green houses will be demolished for site entrance and car park use. Some common trees and fruit trees are scattered mainly along the boundary. A large boggy/marsh area, fed by two ditches of low landscape value, is found at the northern corner; and
- (iii) significant adverse landscape impact arising from the proposed use is not anticipated;
- (d) should the application be approved, approval conditions on the submission and implementation of tree preservation and landscape proposals are recommended; and
- (e) the applicants should also be advised on the following:
  - (i) there is opportunity to provide continuous peripheral tree planting in the landscape proposal for effective screening to the proposed structures and un-vegetated areas;
  - (ii) the applicants should replace the soiled area (indicated as car park, play area, handicraft making and refreshment kiosk) with grass area or grass pavers to prevent surface erosion in the landscape proposal; and
  - (iii) some *Araucaria heterophylla* and *Cinnamomum camphora* within the western area (**Plan A-2**) should be preserved on site.

### **Drainage and Sewerage**

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

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition to request the applicants to submit and implement a drainage proposal for the Site is recommended to ensure that the proposed development will not cause adverse drainage impact to the adjacent area;
- (c) the applicants are reminded of the following:
  - (i) the applicants are required to identify the potential drainage impacts of the proposed development and demonstrate in their submission with the implementation of necessary mitigation measures so that the proposed development will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development;



- (ii) the Site is in the vicinity of an existing streamcourse (**Plan A-2**). The applicants are required to place all the proposed works 3 m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts both during and after construction. Proposed flooding mitigation measures, if necessary, shall be provided at the resources of the application to his satisfaction; and
- (iii) the applicants should be reminded to minimise the possible adverse environmental impacts on the existing streamcourse in the design and during construction.
- (d) the Site is in an area where no public sewerage connection is available;
- (e) he has no comment on applicants' proposal on using the septic tank and soakaway system to treat the wastewater; and
- (f) should the application be approved, an approval condition on submission and implementation of sewerage proposal is recommended.

### **Building Matters**

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

- (a) there is no record of submission of the proposed temporary structures to the Building Authority (BA) for approval and the BD is not in a position to offer comments on their suitability for the use related to the application; and
- (b) the applicants should be reminded of the following:
  - (i) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
  - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Buildings Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
  - (iii) for UBW erected on leased land, enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;

- (iv) in connection with the above, 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)Rs) respectively; and
- (v) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs 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 in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.

### **Water Supply**

#### 9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

### **Geotechnical Engineering**

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

- (a) the Site is overlooked by steep natural terrain and meets the alert criteria for a Natural Terrain Hazard Study (NTHS). The applicants are required to submit a Geotechnical Planning Review Report in support of the Planning Application. Given the temporary nature and the proposed use of the Site, the requirement for NTHS might make the proposed use not economically viable. As an alternative, the northern part of the Site may be designated as a "non-building" area (**Plan A-2**), within which no critical facilities

should be located. In particular, the proposed structures for farmer resting room and handicraft making workshop should be relocated outside the suggested “non-building” area. With the inclusion of the “non-building” area, the requirement for the NTHS may be waived;

- (b) based on the revised layout plan (**Drawing A-1**), the proposed structures for farmer resting room and handicraft making workshop have been relocated outside the “non-building” area. As such, he has no geotechnical comments on the application; and
- (c) should the applicants wish to amend the proposed layout, he may be required to conduct a NTHS and to implement the necessary mitigation measures as part of the proposed development.

### **Public Hygiene and Licensing**

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

he has no objection to the application and his detailed comments are appended in **Appendix III**.

### **District Officer’s Comments**

9.1.13 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he advises that the footbridge connecting the eastern and western portions of the Site is neither constructed nor maintained by his office; and
- (b) he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee (FDRC), the Indigenous Inhabitant Representative and the Resident Representative of Hok Tau Wai have no comment on the application.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD); and
- (b) Director of Leisure and Cultural Services (DLCS).

## **10. Public Comments Received During Statutory Publication Period**

On 3.7.2018, the application was published for public inspection. During the statutory public inspection period, six public comments were received (**Appendix IV**). The Chairmen of Sheung Shui District Rural Committee and FDRC indicate no comment on the application. The remaining four comments received from Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society and an individual raise objection to the application mainly on the grounds that the application is not in line with the planning intention of “AGR” zone; the applicants fail to demonstrate that the

proposed development would not cause adverse drainage, sewerage and environmental impacts on the surrounding area as well as water pollution to nearby stream; and the approval of the application would set an undesirable precedent to similar applications.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary place of recreation, sports or culture use (hobby farm, barbecue spot, play area, handicraft making and refreshment kiosk) for a period of 3 years at the Site zoned “AGR” on the OZP (**Plan A-1**). According to the applicants (**Appendix Ig**), about 10,381 m<sup>2</sup> of the Site (about 70% of the Site) will be reserved for farm area. The remaining area which is about 4,443 m<sup>2</sup> (about 30% of the Site) will be soiled ground area for handicraft making workshops, barbecue spots, play area, car park, etc. (**Drawing A-3**) The proposed development is considered not in conflict with the planning intention of “AGR” zone which is primarily 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. DAFC has no strong view against the application from agriculture point of view. The approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The Site is situated in an area of rural landscape character mainly comprising farm/garden, plant nurseries, active / fallow agricultural land with scattered temporary domestic structures. The proposed development is considered not entirely incompatible with the surrounding land uses. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape planning point of view. It is noted that the applicants will provide fencing with 3m buffer from the stream, which eventually leads to the Tan Shan River EIS. As such, DAFC, from nature conservation point of view, has no adverse comment on the application. However, the applicants should be reminded to perform good site practice and prevent surface-run off and debris from polluting the stream.
- 11.3 The Site is accessible via a local track leading to Hok Tau Road (**Plan A-2**). Fourteen private car parking spaces (measuring 5 m x 2.5 m each), 2 loading/unloading spaces for light goods vehicle (measuring 7 m x 3.5 m each) and 2 loading/unloading spaces for light bus (measuring 8 m x 3 m each) will be provided in the southern corner of the Site near the ingress/egress. Pre-book shuttle bus services to/from the Site and Fanling Station would be provided. The estimated number of visitors during weekdays and weekends are no more than 20 and 50 respectively. Having reviewed the further information submitted by the applicants, C for T has no further comment on the application from the traffic engineering point of view. In response to H(GEO), CEDD’s comment, building structure will not be proposed in the “non-building” area and thus the requirement for a NTHS will not be triggered. In this regard, H(GEO), CEDD has no comment on the application.
- 11.4 The Site is located in the vicinity of Pat Sin Leng Country Park (**Plan A-2**). To address DEP’s concern, the applicants have undertaken to set back the Site from the country park boundary by 5m and fencing will be provided to prevent the visitors of the proposed hobby farm from reaching the country park. Portable toilets and septic tank and soakaway system (STS) are proposed to collect the sewage generated by the proposed development. DEP has no objection to the application, and the applicants

should be reminded to adopt the environmental mitigation measures and requirements as set out in ProPECC PN5/93, the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” and all relevant environmental protection/ pollution control ordinances. Other relevant Government departments consulted, including D of FS, CE/MN of DSD and CE/C of WSD, have no adverse comment on / no objection to the application.

- 11.5 There are two similar applications (No. A/NE-HT/5 and 6) for temporary place of recreation (barbecue areas, play area, handicraft making, refreshment kiosk and fishing ground) involving the same site falling within “AGR” zone in the vicinity of the Site in the Hok Tau area (**Plan A-1**). Both applications were approved with conditions by the Committee in 2010 and 2013 mainly on the considerations that the proposed development was not significantly deviated from the planning intention of the “AGR” zone since a major part of the site would be used for growing of lavender plants and retained for fish ponds; the proposed development was not incompatible with the surrounding area; the proposed development would not cause adverse landscape and drainage impacts on the surrounding area; and the concerns of departments could be addressed by imposing approval conditions. The circumstances of the current application are similar to these approved cases.
- 11.6 Regarding the adverse public comments on the consideration of not in line with the planning intention of “AGR” zone; adverse drainage, sewerage and environmental impacts; and the setting of an undesirable precedent, the Government departments’ comments and planning assessments 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 above, the Planning Department has no objection to the application for a period of 3 years.
- 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 7.12.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no public announcement system and loud speaker, as proposed by the applicants, is allowed to be used on the Site during the planning approval period;
- (c) provision of boundary fencing along the stream in between the Site and the northwestern boundary facing Pat Sin Leng Country Park, as proposed by the applicants, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.6.2019;
- (d) 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 7.6.2019;

- (e) in relation to (d) above, the provision of drainage facilities 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 7.9.2019;
- (f) the submission of sewerage 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 7.6.2019;
- (g) in relation to (f) above, the provision of sewerage facilities 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 7.9.2019;
- (h) the submission of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.6.2019;
- (i) in relation to (h) above, the implementation of tree preservation and landscape proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.9.2019;
- (j) the submission of proposals for fire service installations and water supplies for firefighting 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 7.6.2019;
- (k) in relation to (j) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 7.9.2019;
- (l) the submission of run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 7.6.2019;
- (m) in relation to (l) above, the implementation of run-in/out proposal within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 7.9.2019;
- (n) if planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (o) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) or (m) 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
- (p) upon the expiry of the planning permission, the reinstatement of the Site to an

amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

### Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed temporary use under application 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission 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 the 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 applicants.

## **14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 26.6.2018
<b>Appendix Ia</b>	Further Information received on 7.8.2018
<b>Appendix Ib</b>	Letter dated 9.8.2018 requesting for deferment of consideration of the application
<b>Appendix Ic</b>	Further Information received on 16.10.2018
<b>Appendix Id</b>	Further Information received on 29.10.2018
<b>Appendix Ie</b>	Further Information received on 9.11.2018
<b>Appendix If</b>	Further Information received on 14.11.2018
<b>Appendix Ig</b>	Further Information received on 23.11.2018
<b>Appendix II</b>	Similar Applications for Temporary Place of Recreation, Sports or Culture within/partly within "AGR" zone in the vicinity of the Site in Hok Tau area
<b>Appendix III</b>	Detailed Comments of Director of Food and Environmental Hygiene
<b>Appendix IV</b>	Public Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Drawing A-3</b>	Plan showing areas using for farm and paved with soiled ground

<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3</b>	Aerial Photo
<b>Plans A-4a to A-4d</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2018**