

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

APPLICATION NO. A/YL-HTF/1090

- Applicant** : Kings Joyful Limited represented by R-riches Property Consultants Limited
- Site** : Lot 341 (Part) in D.D.128, Lau Fau Shan, Yuen Long
- Site Area** : 1,290m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ha Tsuen Fringe (HTF) Outline Zoning Plan (OZP) No. S/YL-HTF/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). The Site falls within “AGR” zone on the draft HTF OZP No. S/YL-HTF/11. According to the Notes of the OZP for “AGR” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary planning permission for 3 years. The Site is currently vacant and of soiled ground (**Plans A-2, A-4a & 4b**).
- 1.2 The Site is accessible from Deep Bay Road via local track, with the ingress/egress located at the eastern side of the Site (**Plan A-2 and Drawing A-1**). As shown on the proposed layout plan at **Drawing A-2**, about 857m² (about 66.4% of the Site) will be used for open air farm area (713m²) and covered plant nursery (about 144m²). Soil ground is proposed for covered plant nursery and the remaining part of the Site. 5 structures will occupy about 267.25m² (about 21% of the Site) with a total floor area of 375.25m² (including two 3.5m high single-storey structures (structure A and B) each with the same floor area of 72m² for plant nursery, two 6.5m high two-storey structures (structure C and D) locating at the southern portion of the Site each with a floor area of 108m² for agricultural education centre and reception & storage of farm tools, and a 3.5m high single-storey structure (structure E) with a total floor area of 15.25m² for fire service water tank) are proposed. Neither parking spaces nor loading/unloading spaces are proposed.

- 1.3 According to the applicant, the operation hours of the Site are from 10:00 a.m. to 6:00 p.m., including Sundays and public holidays. The estimated number of visitors would not exceed 15 persons per day. The staff and visitors of the hobby farm will take public transport (green public light bus route No. 33 is available) to Deep Bay Road and arrive at the Site on foot (**Appendices I and Ib**). The sewerage treatment on Site will be by means of septic tank (**Appendix Ic**). The vehicular access plan, proposed layout plan, proposed landscape plan and proposed farm area and soiled ground plan are at **Drawings A-1 to A-4** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement, vehicular access plan, proposed layout plan and proposed landscape plan received on 7.5.2018 (**Appendix I**)
 - (b) Further Information (FI) dated 15.6.2018 with proposed farm area and soiled ground plan (**Appendix Ia**)
 - (c) FI dated 21.6.2018 clarifying the existing paving and public transport to the Site (**Appendix Ib**)
 - (d) FI dated 25.6.2018 clarifying the sewerage treatment on Site (**Appendix Ic**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI in **Appendices I, Ia, Ib and Ic**. They can be summarized as follows:

- (a) The proposed temporary place of recreation, sports or culture (hobby farm) is a Column 2 use within the “AGR” zone on the HTF OZP.
- (b) The Site is currently vacant. The proposed development is compatible with the surrounding land uses. There will neither be hardpaving nor excavation of land within the Site to minimise impact to the surrounding area.
- (c) The Site will be accessed via a van track from Deep Bay Road. In order to minimize the possible traffic and environmental impact to the surrounding area, no private car parking spaces will be provided. The estimated number of visitors would not exceed 15 persons per day. The staff and visitors of the hobby farm will take public transport (green public light bus route No. 33 is available) to Deep Bay Road and arrive at the Site on foot. The sewerage treatment on Site will be by means of septic tank.
- (d) The operation hours of the Site are from 10:00 a.m. to 6:00 p.m., including Sundays and public holidays. No loudspeaker will be installed to avoid noise nuisance to the surrounding area.

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

The applicant is the sole “current land owner” and documentary proof of ownership is enclosed with the application form. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Application

There is no similar application within the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Deep Bay Road via a local track via ingress and egress at the eastern boundary of the Site (**Plan A-2**); and
- (b) currently being vacant and of soiled ground.

7.2 The surrounding areas have the following characteristics:

- (a) occupied by unused land, vacant land, some open storage yards of construction materials and a warehouse which are suspected unauthorized developments (UD), storage area, a workshop, and a few residential structures; and
- (b) to the further east of the Site is a “Green Belt” zone while to the further north at the opposite side of Deep Bay Road is the “Coastal Protection Area” zone near the seaside.

8. Planning Intention

The planning intention of the “AGR” zone in the draft HTF OZP 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.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) The Site falls within “Ngau Hom Shek Site of Archaeological Interest” (AM 77-0051)(**Plan A-1**). Comments from Antiquities and Monuments Office (AMO) of Leisure and Cultural Services Department (LCSD) should be sought.
- (c) The Site is accessible to Deep Bay Road through a local road on Government land (GL). His Office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the lot owner(s) will need to apply to his Office to permit the structures to be erected or regularize any irregularities on Site. Such application will be considered by LandsD acting in the capacity of the 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 others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) The Site can be accessed to Deep Bay Road which is a single track road.
- (b) He has no adverse comment to the application from traffic engineering viewpoint on the basis of applicant’s submitted documents which state that no parking spaces are proposed within the Site and the number of visitors would not exceed 15 persons per day.
- (c) The applicant shall remind visitors to arrive the Site by using public transport services.

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

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

Agriculture and Nature Conservation

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

- (a) It is noted that the Site falls within the “AGR” zone. On the understanding that a substantial portion of the Site will be used for cultivation purpose and no pavement of land is proposed, he has no strong view on the application from agricultural point of view.
- (b) The Site is at certain distance (~40m) from the Coastal Protection Area and is separated from the coastal habitat by the Deep Bay Road. According to the applicant, no land filling, excavation, tree felling and alteration of existing building would be involved, and only a maximum of 15 visitors is proposed. Subject to DEP's comments that sewerage pollution is not an issue, adverse ecological impacts arising from the proposed development is unlikely and thus he has no adverse comments on the application from nature conservation point of view.
- (c) Should the application be approved, the applicant should adopt appropriate measures to avoid impacts on existing trees on Government land adjacent to the site.

Environment

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

- (a) He has no objection to the application.
- (b) The applicant confirmed in the FI dated 25.6.2018 that septic tank would be provided to treat the sewage, and it would meet the requirements in the ProPECC. Please note that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person (AP).
- (c) There is no substantiated environmental complaint pertaining to the Site received over the past 3 years.
- (d) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses’ (COP).

Drainage

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

- (a) He has no objection in principle to the proposed development from a drainage point of view.

- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

Landscape

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

- (a) The Site, to the south of Deep Bay Road and lies in an area of “AGR” zone. The current application is seeking planning permission for temporary hobby farm use for a period of 3 years.
- (b) With reference to the site photos from DPO dated 29.5.2018, the Site is observed to be mainly vacant with trees generally along the site boundary. The Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures. Though temporary structures are observed in the vicinity they are suspected unauthorised development. The proposed temporary structures are incompatible with the surrounding landscape character.
- (c) When comparing the aerial photos of 2011 (Aerial Photo No. CW93033), 2015 (Aerial Photo No. CW113691) and 2018 (Aerial Photo No. E033200C dated 3.1.2018), it is observed that the Site was originally well vegetated with trees and shrubs, but the majority of the Site (central portion) appeared to be cleared in 2015. It is observed that there are a few trees at the northern portion of the site in 2018.
- (d) Open storage use (probably used tires) is observed in the aerial photos of 2013 (Aerial Photo No. CS43508), 2015 (Aerial Photo No. CW113691) and 2018 (Aerial Photo No. E033200C dated 3.1.2018), while used tires were observed stacked within the Site in the site photos from DPO dated 9.2.2018.
- (e) Other Detailed Comments as follows:
 - (i) Despite the site is partly hard paved, the soil at the site is likely contaminated and tainted with (potential toxic) chemicals from the storage of used tires, the direct use of such soil as a medium for planting is illogical as the plants would not likely able to grow. Hence a degree of excavation and filling to replace/treat the topsoil as well as footing for the temporary structures (some 2 storeys high) is anticipated.
 - (ii) The proposed layout appears misleading, despite the majority of the uncovered areas indicated as ‘farm area’, the farms appear to be isolated by the proposed structures. As there is no footpaths proposed for access (e.g. with wheelbarrows) to tend to the farms. Furthermore, as the method to irrigate the farms is not clarified the feasibility of the proposed layout is in doubt.

- (iii) As the existing trees within (and adjoining) the site is not shown on the submitted landscape proposal, there is inadequate information to ascertain the treatment of the existing trees.
- (iv) Hence based on the above the sincerity of the applicant to operate a hobby farm is in doubt.
- (f) Approval of the application would set an undesirable precedent likely to encourage other similar applications to clear and form the site prior to obtaining planning approval, and the proliferation of other incompatible uses. The cumulative impact of which would result in the general degradation of the rural landscape character and overall integrity of the “AGR” zone.
- (g) Based on the above, he has reservations to the application from the landscape planning perspective.
- (h) Should the application be approved, he would recommend the approval condition to submit and implement a tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Board in the permission.
- (i) Advisory comments as follows:
 - The applicant is reminded that approval of the landscape proposal under the application or approval condition does not imply approval of tree works such as felling/transplanting or pruning under lease. Any proposed tree preservation/removal scheme involving trees outside site in particular, the applicant shall be reminded to approach relevant authority/government department(s) direct to obtain the necessary approval.
 - The applicant may wish to consider planting tree species of fruiting or ornamental nature in support of the proposed hobby farm use in lieu of the proposed tree species *Ficus microcarpa* which displays wide spreading canopy and roots (as well as aerial/prop roots) habit.
 - Any proposed farm area should be set back away from the drip line of existing trees to avoid damage to the roots (a likely cause of decline in tree health) of existing trees.

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) are to be carried out on the Site, prior approval and consent of the BD 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 the BD 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.
- (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 respectively.
- (d) 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 Building (Planning) Regulations at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

9.1.10 Comments of the Antiquities and Monuments Office (AMO) of Leisure and Cultural Services Department (LCSD):

In view of the location and scope of the proposed development, please advise the applicant to inform the AMO immediately in case of discovery of antiquities or supposed antiquities within the Site.

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or

overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comment

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

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

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

- (a) Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD);
- (b) Commissioner of Police (C of P);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 15.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 5.6.2018, four objecting public comments were received by two members of the public and two green groups (Hong Kong Bird Watching Society and Designing Hong Kong). The grounds of objection include the possible spreading of disease by poultry in the hobby farm and not in line with the planning intention of “AGR” zone; possible adverse ecological impacts, safety hazard generated by the surrounding open storage uses on the hobby farm visitors and setting of undesirable precedent (**Appendices IIa to II d**).

11. Planning Considerations and Assessments

11.1 The subject application is for temporary place of recreation, sports or culture use (hobby farm) for a period of 3 years at a site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes or agricultural rehabilitation. The hobby farm under application consists of open-air farm area (55% of the Site area) and soiled ground (45% of the Site area) where structures will be built for plant nursery, agricultural education centre, reception and storage of farm tools, etc. DAFC has no objection to the application from the conservation and agriculture point of view taking account of a substantial portion of the Site to be used for cultivation purpose and no land paving is proposed. The proposal involving agriculture/farming use is considered not entirely in conflict with the planning intention of the “AGR” zone.

- 11.2 The scale of the development under application involving 5 low-rise structures (with heights of 3.5m to 6.5m (1-storey to 2-storey) and roofed-over area of about 267.25m²) (**Drawing A-2**) is not entirely incompatible with the surrounding areas within the subject “AGR” zone which are generally rural in character (**Plan A-2**).
- 11.3 The nature and scale of the proposed development will unlikely result in significant adverse ecological, environmental, traffic and drainage impacts on the surrounding areas and there is no major adverse comment from concerned Government departments, including DAFC and DEP. DAFC considers that the Site is at certain distance (~40m) from the Coastal Protection Area and is separated from the coastal habitat by the Deep Bay Road and therefore adverse ecological impacts arising from the proposed development is unlikely. DEP considers the proposed septic tank for sewerage treatment is acceptable provided that its design and construction follow the requirements of the relevant practices notes. CTP/UD&L of PlanD has reservation on the application as approval of the application would set an undesirable precedent encouraging other similar applications to clear and form the Site before planning permission is obtained. In this regard, the applied use is mainly agriculture use and involves mainly cultivation/landscaped area with limited number of structures and no hard-paved area. Approval conditions on the submission and implementation of tree preservation and landscape proposal are recommended in paragraph 12.2 to address the concern of CTP/UD&L of PlanD. Relevant approval conditions are also recommended to address the requirements of relevant Government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the site will be subjected to enforcement action by the Planning Authority.
- 11.4 There are four public comments (**Appendices IIa to IId**) received during the statutory publication period all raising objection to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.3 are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments as mentioned in paragraph 10, the Planning Department considers that the temporary place of recreation, sports or culture (hobby farm) could be tolerated 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 **6.7.2021**. 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 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicles are allowed to be parked/stored on the site, as proposed by the applicant, at any time during the planning approval period;

- (c) the provision of boundary fence on the site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (d) the submission of tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (e) in relation to (d) above, the implementation of tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.4.2019**;
- (f) 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 **6.1.2019**;
- (g) in relation to (f) 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 **6.4.2019**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.1.2019**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.4.2019**;
- (k) if any of the above planning conditions (a), (b) or (h) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (c), (d), (e), (f), (g), (i) or (j) 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
- (m) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the 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 for a departure from the planning intention, even on a temporary basis; and

- (b) approval of the application would set an undesirable precedent for similar applications within the “AGR” zone, and the cumulative effect of which would result in a general degradation of the rural environment and landscape quality of the area.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with supplementary planning statement, vehicular access plan, proposed layout plan and proposed landscape plan received on 7.5.2018
Appendix Ia	FI dated 15.6.2018 with proposed farm area and soiled ground plan
Appendix Ib	FI dated 21.6.2018 clarifying the existing paving and public transport to the Site
Appendix Ic	FI dated 25.6.2018 clarifying the sewerage treatment on Site
Appendix IIa to II d	Public comments received during the statutory publication period
Appendix III	Advisory Clauses
Drawing A-1	Site and Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	Proposed Farm Area and Soiled Ground Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos