

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

**APPLICATION NO. A/YL-HTF/1091**

- Applicant** : Mr. TANG Chi Keung
- Site** : Lots 438 and 439 in D.D. 128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 2,200m<sup>2</sup> (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 unused 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 2,000m<sup>2</sup> (about 91% of the Site) will be used for open air farm area. 1 single-storey (4m in height) structure will occupy about 200m<sup>2</sup> (about 9% of the Site) with a total floor area of 200m<sup>2</sup> locating at the eastern boundary of the Site for education centre, reception, storage of farm tools and lunge uses. Neither parking spaces nor loading/unloading spaces are proposed.
- 1.3 According to the applicant, the operation hours of the Site are from 9:00 a.m. to 6:00 p.m. daily, including public holidays. The estimated number of visitors per day would be around 15-20 persons on weekdays and 30-40 persons on Saturdays and Sundays. 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 (**Appendix Ia**). The vehicular access plan and proposed layout plan, are at **Drawings A-1 and A-2** respectively.

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

- (a) Application form with vehicular access plan and proposed layout plan received on 27.7.2018 (**Appendix I**)
- (b) Further Information (FI) dated 20.8.2018 in response to Transport Department's comments (**Appendix Ia**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

The Site is currently vacant, as the previous plant nursery use was terminated in 1987. The applicant thus submits the application for hobby farm use in order to make good use of the land.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is one of "current land owner" and has obtained consents of the other 2 "current land owners". 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**

5.1 The Site was involved in 2 previous applications (Nos. A/YL-HT/414 and A/YL-HTF/1083) for temporary racing circuit and open storage uses respectively. All the applications were rejected. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5.2 Application No. A/YL-HT/414 for temporary racing circuit on a much larger site for a period of 3 years which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 29.7.2005 for the reasons of not in line with the planning intention of the then "GB" zone; insufficient information to demonstrate that the development would not have adverse environmental/ecological/ traffic/drainage/geotechnical/landscape/visual impact(s) on the Site and the Deep Bay area; and the approval would set an undesirable precedent for similar applications, the cumulated impact would result in general degradation of the environment.

5.3 The last planning application No. A/YL-HTF/1083 for temporary open storage use for a period of 3 years which was rejected by the Committee of the Board on 25.8.2017 for the reasons of not in line with the planning intention of the then "AGR" zone; the approval would set an undesirable precedent for similar

applications, the cumulated impact would result in general degradation of the environment; not compatible with the surrounding area; and not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses.

- 5.4 Comparing with the last application No. A/YL-HTF/1083, the current application is submitted by the same applicant for a different use on a slightly larger site (+100m<sup>2</sup>).

## **6. Similar Application**

There is one similar application within the same “AGR” zone in the draft HSK&HT OZP. The application (No. A/YL-HTF/1090) for temporary place of recreation, sports or culture (hobby farm) was approved with conditions by the Committee on 6.7.2018. Details of this application is summarized at **Appendix III** and its location is shown on **Plan A-1**.

## **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 unused with soiled ground with grass.

7.2 The surrounding areas have the following characteristics:

- (a) predominately occupied by fallow agricultural land, unused land and an open storage yard of construction materials, which is suspected unauthorized developments (UD); and
- (b) to the further east of the Site is a “Green Belt” zone.

## **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 Lots 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 “Fu Tei Au Site of Archaeological Interest” (AM 98-0910)(**Plan A-1**).
- (c) The Site is accessible from Kai Pak Ling Road through Government Land (GL). His Office provides no maintenance works to 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(s) will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such 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 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 40 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 proposed access arrangement of the Site from Deep Bay Road should be commented by TD.
- (b) HyD does not and will not maintain any access connecting the Site and Deep Bay Road.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads and drains.

### **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 relevant OZP and has potential for agricultural rehabilitation. He has no strong view on the application from agricultural perspective if a substantial area of the Site is used for agricultural activities and no pavement is proposed.
- (b) Should the application be approved, the applicant should adopt appropriate measures to avoid causing pollution or disturbance to the adjacent watercourse.

### **Environment**

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

- (a) There is no substantiated environmental complaint pertaining to the Site received over the past 3 years.
- (b) 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, located to the west of Shenzhen Bay Bridge lies in an area of “AGR” zone, to the south east of the site is an area zoned “GB” and an area zoned “CPA” to the further north west. The Site is subject of previous Application No. A/YL-HT/1083 for temporary open storage to which we had objections from the landscape planning perspective. The current application seeks planning permission for temporary hobby farm for a period of 3 years by the same Applicant on a slightly

larger site.

- (b) With reference to the site photos dated 3.8.2018, it is observed that the Site is formed with existing large trees generally adjoining the Site. A wooded knoll is observed to the south, and Shenzhen Bay Bridge is located to the further east of the Site. The Site is situated in an area of rural landscape character dominated by woodland but disturbed by open storage yards and temporary structures. Significant change to the landscape character arising from the application is not envisaged. Hence he has no objection to the application from the landscape planning perspective.
- (c) The arable area and circulation for access (e.g. with wheel barrows) to tend to the farms are not indicated on plan.
- (d) Should the application be approved, he would recommend the approval condition to submit and implement a landscape proposal to the satisfaction of the Director of Planning or of the Board in the permission.
- (e) Advisory comments as follows:
  - The Applicant is reminded that approval of the landscape proposal under S.16 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
  - 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, AMO has no objection to the application from cultural heritage viewpoint. Nevertheless, the applicant is required to inform AMO immediately when antiquities or supposed antiquities, if any, are unearthed within the Site during the construction and operation of the proposed development.

### **District Officer's Comments**

#### 9.1.11 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/W, CEDD);
- (b) Director of Electrical and Mechanical Services (DEMS);
  - (c) Commissioner of Police (C of P);
  - (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD); and
  - (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 3.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 24.8.2018, 5 objecting public comments were received by a member of the public and 4 green groups (Hong Kong Bird Watching Society, WWF, Kadoorie Farm & Botanic Garden Corporation and Designing Hong Kong). The grounds of objection include not in line with the planning intention of “AGR” zone; incompatible with the adjoining land uses; no detailed assessment on traffic impact; “destroy first, build later”; possible adverse ecological impacts; and setting of undesirable precedent (**Appendices IVa to IIe**).

## **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 (91% of the Site area) and a structure will be built for plant nursery, education centre, reception and storage of farm tools, etc. DAFC has no objection to the application taking into account that majority of the Site is used for agricultural activities and no pavement is proposed. The proposal involving majority of agriculture/farming use (about 91% of the Site) is considered in line with the planning intention of the “AGR” zone.
- 11.2 The proposed development under the application involving majority of farmland with only one low-rise structure (with height of 4m) which is considered not incompatible with the surrounding areas within the subject “AGR” zone which are predominately generally rural in character with fallowed farmland (**Plan A-2**).
- 11.3 The proposed development will unlikely result in significant adverse landscape, ecological, environmental, traffic and drainage impacts on the surrounding areas and there is no major adverse comment from concerned Government departments, including CTP/UD&L of PlanD, DAFC, AC for T/NT, CE/MN of DSD and DEP. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved one similar application within the same “AGR” zone



on the OZP (**Plan A-1**). Thus, the approval of the subject application is in line with the Committee's previous decision.

11.5 There are 5 public comments received during the statutory publication period all raising objection to the application on the grounds as summarized in paragraph 10 above. However, the relevant departments consulted have no adverse comments/objections to the application. The planning considerations and assessments in paragraph 11.1 to 11.4 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 proposed 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 **21.9.2021**. 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 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 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 **21.3.2019**;
- (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 **21.6.2019**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of 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 **21.3.2019**;
- (g) in relation to (f) above, the implementation of 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 **21.6.2019**;
- (h) 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 **21.3.2019**;
- (i) in relation to (h) 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 **21.6.2019**;

- (j) the provision of fencing 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 **21.3.2019**;
- (k) if any of the above planning conditions (a), (b) or (e) 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), (f), (g), (h), (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 V**.

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**

<b>Appendix I</b>	Application form with vehicular access plan and proposed layout plan received on 27.7.2018
<b>Appendix Ia</b>	FI dated 20.8.2018 in response to Transport Department's comments
<b>Appendix II</b>	Previous s.16 applications covering the Application Site
<b>Appendix III</b>	Similar s.16 Applications within the same "AGR" Zone on the draft Ha Tsuen Fringe Outline Zoning Plan
<b>Appendix IVa to IVe</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**