

Previous s.16 Application covering the Application Site

Approved Application

| | <u>Application No.</u> | <u>Applied Use(s)/Development(s)</u> | <u>Zoning</u> | <u>Date of Consideration (RNTPC/TPB)</u> | <u>Approval Conditions</u> |
|----|-------------------------------|--|----------------------|---|-----------------------------------|
| 1. | A/YL-HT/991 | Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years | “CPA” | 8.4.2016 (Revoked on 8.10.2017) | 1-15 |

Approval Conditions

- 1 Revocation clauses.
- 2 Reinstatement clause.
- 3 No night time operation.
- 4 No land filling or increase in site formation level.
- 5 A clearance of at least 1m from all the trees at the site.
- 6 No barbecue activity.
- 7 No public announcement system.
- 8 No public vehicle park.
- 9 No vehicle is allowed to queue back to or reverse onto/from the public road.
- 10 Implementation of the accepted drainage proposal.
- 11 Implemented drainage facilities shall be maintained at all times.
- 12 Submission of a tree preservation and landscape proposal.
- 13 Implementation of the tree preservation and landscape proposal.
- 14 Submission of a fire service installations proposal.
- 15 Implementation of the fire service installations proposal.

Rejected Application

| | <u>Application No.</u> | <u>Proposed Use</u> | <u>Zoning</u> | <u>Date of Consideration (RNTPC/TPB)</u> | <u>Rejected Reasons</u> |
|---|-------------------------------|---|----------------------|---|--------------------------------|
| 1 | A/YL-HT/805 | Temporary Organic Farm with Ancillary Education and Activity Centre and Small-scale Barbecue Spot for a Period of 3 Years | CPA | 4.1.2013 (upon review by TPB) | 1-3 |

1. The development was not in line with the planning intention of the "CPA" zone, which was to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
2. With an extensive area of over 2.2 hectares and some 25 structures on-site for various uses including education/activity centre and barbecue spot within the "CPA" zone, the applicant failed

to demonstrate that the development would not have adverse environmental, drainage and landscape impacts on the surrounding areas.

3. The approval of the application would set an undesirable precedent for similar applications within the "CPA" zone, the cumulative effect of which would result in a general degradation of the conservation value of the area.

**Similar s.16 Applications for Temporary Place of Recreation, Sports or Culture (Hobby Farm)
within the same “CPA” Zone on the Ha Tsuen Fringe OZP**

Approved Applications

| | <u>Application No.</u> | <u>Proposed Use</u> | <u>Zoning</u> | <u>Date of Consideration (RNTPC)</u> | <u>Approval Conditions</u> |
|---|------------------------|--|---------------|--------------------------------------|----------------------------|
| 1 | A/YL-HT/838 | Proposed Temporary Place of Recreation, Sports or Culture (Fishing Ground) and Ancillary Refreshment Kiosk for a Period of 3 Years | CPA | 15.3.2013 | 1-13 |
| 2 | A/YL-HT/1010 | Temporary Place of Recreation, Sports or Culture (Fishing Ground) and Ancillary Refreshment Kiosk for a Period of 3 Years | CPA | 18.3.2016 | 1-7, 10-16 |
| 3 | A/YL-HTF/1094 | Temporary Place of Recreation, Sports or Culture (Fishing Ground) and Ancillary Refreshment Kiosk for a Period of 3 Years | CPA | 22.3.2019 | 1-3, 5-6, 12-17 |

Approval Condition(s)

1. Revocation clauses.
2. Reinstatement clause.
3. No night-time operation/no operation on Sundays and public holidays.
4. No barbecue activity.
5. No public announcement system.
6. No filling of pond.
7. A clearance of at least 1.5m from the centerline of the existing water mains at the site should be maintained.
8. Submission of a drainage proposal.
9. Provision of the drainage facilities proposed.
10. Submission of a tree preservation and landscape proposal.
11. Implementation of a landscape proposal.
12. Submission of a fire service installations proposal.
13. Implementation of a fire service installations proposal.
14. No vehicle is allowed to queue back to or reverse onto/from the public road.
15. Existing drainage facilities shall be maintained.
16. Submission of a condition record of the existing drainage facilities.
17. All vegetation within the Site shall be maintained.

Advisory clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) shorter compliance period is imposed in order to monitor the progress of compliance with approval conditions. Should the applicant fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration may not be given to any further applications;
- (c) to note the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD)'s comments that the Site comprises 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. No permission is given for occupation of GL (about 270 m² subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed. The LandsD announced on 28.3.2017 that it will strengthen its enforcement actions against unlawful occupation of GL and tighten its arrangements for processing applications for regularisation of unlawful occupation of GL. New measures for handling regularisation application were implemented immediately with effective from the same date. For cases of unlawful occupation of GL commencing on or after 28.3.2017, LandsD will no longer accept any regularisation applications made by the occupiers. The Site is accessible from Deep Bay Road through GL and private lot(s). His office does not guarantee any right-of-way over the GL to the Site. Lot 221 in D.D. 128 is covered by a Short Term Waiver (STW) No. 4638 for temporary place of recreation, sports or culture (fishing ground) and ancillary refreshment kiosk. The Site does not fall within Shek Kong Airfield Height Restriction Area. The STW holders will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) for any of the above will be considered by the 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 the LandsD;
- (d) to note the comments of the Commissioner for Transport (C for T) that sufficient manoeuvring space shall be provided within the Site. The local track leading to the Site is not under Transport Department's (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to the nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road;
- (f) to note the comments of the Director of Agriculture, Fisheries and Conservation that the applicant is advised to ensure the operation of the proposed hobby farm and the associated

visitors' activities would not encroach on or affect the surrounding area in particular the wooded knoll and ponds to the south and north of the Site, respectively, as well as mangrove/mudflat habitat along the coast of Deep Bay.

- (g) the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) that approval of s.16 application by the Town Planning Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Applicant is reminded to approach relevant authority/ government department(s) direct to obtain the necessary approval on tree works. ;
- (i) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that the development should neither obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the adjacent areas. The applicant should consult DLO/YL and seek consent from the relevant owners for the proposed final discharge to the existing pond and any works to be carried out outside his lot boundary before commencement of the drainage works.
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application. 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 application site under the BO. Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on application site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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) Regulation at the building plan submission stage;
- (k) to note the comments of the Director of Fire Services (D of FS) that the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. 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;
- (l) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance, pest infestation and

obstruction to the surrounding. Proper licence / permit issued by FEHD is required if there is any catering service / activities regulated by the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. For any waste generated from the such work / operation, the applicant should arrange disposal properly at their own expenses.