

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

**APPLICATION NO. A/YL-LFS/323**

<b><u>Applicant</u></b>	Onfill Company Limited represented by Gender Consultants Limited
<b><u>Site</u></b>	Lots 9, 12 S.A, 12 RP, 13, 14 S.A ss.1 S.A, 14 S.A ss.1 RP, 14 S.A ss.2, 14 S.A RP, 14 S.B ss.1 S.A, 14 S.B ss.1 RP, 14 S.B RP, 14 RP, 15 S.A ss.1, 15 S.A RP, 15 S.B, 15 RP, 16 S.A, 16 S.B, 16 RP, 17 S.A ss.1, 17 S.A RP, 17 S.B, 17 S.C and 17 RP in D.D.128 and Adjoining Government Land, Lau Fau Shan, Yuen Long
<b><u>Site Area</u></b>	11,050 m <sup>2</sup> (including about 645 m <sup>2</sup> of Government Land)
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
<b><u>Zoning</u></b>	"Residential (Group C)" ("R(C)") (23.3%) and "Residential (Group D)" ("R(D)") (76.7%)
<b><u>Application</u></b>	Proposed Temporary Place of Recreation, Sports or Culture for a Period of 5 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 for a period of 5 years (**Plan A-1**).
- 1.2 Majority part of the Site (76.7%) falls within the "R(D)" zone with a small portion (23.3%) falls within the "R(C)" zone on the draft Lau Fau Shan and Tsim Bei Tsui OZP. According to the Notes of the OZP for the "R(C)" and "R(D)" zones, '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 approval for a period of 5 years.
- 1.3 The Site is the subject of a previous application (No. A/YL-LFS/156) for proposed residential development which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 27.7.2007. However, the approved development was not implemented and the planning

permission lapsed on 27.7.2011. The Site is currently vacant.

- 1.4 As shown on the proposed layout plan at **Drawing A-1**, the proposed temporary place of recreation, sports or culture use includes hobby farm/greenery (40%), sport/game area and stalls (60%) for recreation and fun for children. The ingress/egress is located at the northeast corner of the Site. Access to the Site is via a vehicular track linking to Deep Bay Road. The eastern and north-western parts of the Site are proposed for uncovered sport/game area. Stalls and hobby farming will be located at the northern, southern and western parts of the Site. 34 temporary structures (all 1-storey and 2.4m high with a total floor area of about 282.5m<sup>2</sup>) are proposed for stall, guard room and toilet uses. No car parking spaces nor loading/unloading spaces will be provided at the Site. The operation hours of the proposed development are between 11:00am to 6:00pm on Mondays to Fridays and 10:00am to 7:00pm on Saturdays, Sundays and public holidays. The proposed development is intended to accommodate not more than 50 visitors at one time/event.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 21.5.2018 (Appendix I)
  - (b) Further information on traffic arrangement and operation mode received on 5.7.2018 (Appendix Ia)
  - (c) Further information on application use and the percentage of the Site reserved for hobby farm purpose received on 11.7.2018 (Appendix Ib)
  - (d) Further information on the clarification of application use received on 12.7.2018 (Appendix Ic)

## 2. **Justification 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:

- (a) The applicant would like to commence land rehabilitation on the Site. However, due to some technical difficulties, land rehabilitation could not commence for the time being. So they would like to use the Site efficiently by installing 30 temporary single stalls for eating and recreation uses. All stalls will be made by temporary materials and will place on its own weight. No permanent structures will be built on-site.
- (b) As there is no eating place or no open areas for general public to enjoy, the applicant wants to promote local tourism.
- (c) No BBQ activity, food selling, loud speaker are proposed.
- (d) No parking spaces are proposed within the Site. The increased number of pedestrian flow at the footpath of Deep Bay Road is estimated to be 10 persons per hour.

- (e) The main purpose of the proposed "Hobby Farm" is a place for both teenagers and children. It would be used for both recreation and promote local farming. Therefore, 40% of the site area will be used for rehabilitation of local farming such as erection of Greenhouses. For the rest 60% area, there will be stores, booths for recreation and fun for children.

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

The applicant is the sole “current land owner” of her respective lot. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Previous Application**

- 4.1 The Site is the subject of a previous application (No. A/YL-LFS/156) for proposed residential development which was approved with conditions by the Committee on 27.7.2007. However, the approved development was not implemented and the planning permission lapsed on 28.7.2011. Details of the application are summarised at **Appendix II** and its location is shown in **Plan A-1**.
- 4.2 Comparing with the last approved application No. A/YL-LFS/156, the current application is submitted by the same applicant for different use on a temporary basis.

### 5. **Similar Application**

There is no similar application within the same “R(C)” and “R(D)” zones.

### 6. **The Site and Its Surrounding Areas (Plans A-1 to A-4)**

- 6.1 The Site is:
  - (a) currently vacant; and
  - (b) accessed via a local track from Deep Bay Road (**Plan A-2**).
- 6.2 The surrounding areas have the following characteristics:
  - (a) residential development (Deep Bay Grove), residential structures in Hang Hau Tsuen, fallow agricultural land, vacant land and unused land in the vicinity;
  - (b) to the north-east are carparks and vacant land; and
  - (c) open storage for construction material and machinery in the vicinity are suspected unauthorized developments (UDs).

## **7. Planning Intentions**

- 7.1 The Site straddles over “R(C)” and “R(D)” zones on the draft Lau Fau Shan and Tsim Bei Tsui OZP. The “R(C)” zone is intended primarily for low-rise, low density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 7.2 The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

## **8. Comments from Relevant Government Departments**

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

### **Land Administration**

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

- (a) Lot No. 16 S.A, 16 S.B, 16 RP, 17 S.A ss.1, 17 S.A RP, 17 S.B, 17 S.C and 17 RP all in D.D. 128 are New Grant Agricultural Lots held under Tai Po New Grant No. 4855 which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The remaining lots in the Site are 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.
- (c) No permission is given for occupation of Government Land (GL) (about 645 m<sup>2</sup> subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (d) The Site is accessible to Deep Bay Road through GL. Her office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site does not fall within any Airfield Height Restriction Area.
- (f) Should the application be approved, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Besides, 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. Such application(s) will be considered by the Lands Department

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 Lands Department.

### **Nature Conservation**

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

Noting that the Site falls within “R(C)” and “R(D)” zones and no land filling/excavation, tree felling will be involved according to the application, she has no comment on the application from nature conservation point of view.

### **Environment**

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

- (a) Provided that the applicant would minimise any noise from the proposed use such as prohibiting the use of loudspeakers so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (“COP”) to minimise any potential environmental nuisance.
- (c) No substantiated environmental complaint pertaining to the Site has been received in the past three years.

### **Drainage**

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

- (a) He has no objection in principle to the proposed application from a drainage point of view, but he has some technical comments on the drainage proposal which are in **Appendix III**.
- (b) Should the application be approved, he suggests to impose an approval condition requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to his satisfaction.

## **Traffic**

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

The subject site can be accessed to Deep Bay Road which is a single track road with footpath. He has no adverse comment on the application from traffic engineering point of view on the basis of the applicant's submitted documents which state the following:

- (a) no parking spaces are proposed within the subject site; and
- (b) the increased number of pedestrian flow at the footpath of Deep Bay Road is estimated to be 10 persons per hour.

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

- (a) The access arrangement should be commented by TD.
- (b) The temporary access road connecting to Deep Bay Road is currently not maintained by HyD. LandsD should be approached to confirm the management and maintenance party of the access road.
- (c) The applicant should confirm with the maintenance party to see if it is necessary to provide a run in/out at the above 'temporary road' at the proposed entrance of the Site in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (d) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (e) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

## **Landscaping and Urban Design**

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

#### **Landscaping**

- (a) With reference to the aerial photo of 2018, the site is observed to be mostly vacant and partly vegetated with trees and shrubs. The site is situated in an area of rural fringe landscape character. Significant change to the landscape character arising from the application is not envisaged.

- (b) Having reviewed the submitted information, it is noted that the proposed layout would be in conflict with the existing trees. However the treatment of the existing trees is not clarified. Despite the Applicant expressing the wish to rehabilitate the site, it is observed from the proposed layout is predominantly hard paved.
- (c) In view of the large area of the Site and nature of the applied use, the Applicant may wish to propose double row trees along the site boundary with tree species of fruit bearing or ornamental nature in support of and ancillary to the hobby farm use.
- (d) In view of the above, he has no objection to the application from the landscape planning perspective.
- (e) Should the Board approve the application, in view of the above, he would recommend the following approval condition to be included in the permission:

The submission and implementation of a landscape proposal including a tree preservation scheme to the satisfaction of the D of Planning or of the Town Planning Board

- (f) The Applicant is reminded that approval of the tree preservation and landscape proposal by the TPB under S.16 application does not imply approval for tree works such as pruning, transplanting and/or felling under lease. Tree Removal Applications should be submitted direct to DLO for approval.
- (g) Useful information published by the GLTM Section, DEVB is available for reference in:
- Tree Maintenance For Private Properties 私人物業樹木護養資料 (Chinese Version: [http://www.greening.gov.hk/tc/tree\\_care/info\\_private.html](http://www.greening.gov.hk/tc/tree_care/info_private.html))
  - Tree Risk Assessment and Management Arrangement 樹木風險評估及管理安排 (Chinese Version: [http://www.greening.gov.hk/tc/tree\\_care/tra\\_arrangements.html](http://www.greening.gov.hk/tc/tree_care/tra_arrangements.html))
  - Handbook of Tree Management 樹木管理手冊 (Chinese Version: [https://www.greening.gov.hk/tc/tree\\_care/Handbook\\_on\\_Tree\\_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html))

### **Building Matters**

8.1.8 Comments of the Chief Building Surveyor/NT 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 application 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 co-ordinator 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 application 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) Regulation at the building plan submission stage.

### **Fire Safety**

#### 8.1.9 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire services 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. In addition, the applicant should also be advised on the followings points:
  - i. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - ii. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) 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**

#### 8.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

According to the application form, the development proposal would not involve felling of trees and/or cause damage to branches and roots of trees. However, the applicant is reminded of the following:

- (a) From tree preservation point of view, every possible effort should be made to preserve existing trees within and adjacent to the work site and minimize the adverse impact to them during the works period.
- (b) If trees are inevitably affected, Tree Preservation and Removal Proposal (TPRP) should be submitted for approval in accordance with DEVB TC(W) No. 7/2015.

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

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

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

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

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

On 29.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 19.6.2018, two public comments from members of the public were received (**Appendices IVa and IVb**) objecting to the application on the reasons of improper use of land, possible environmental problem and possible transmission of disease from poultry and livestock.

## **10. Planning Considerations and Assessments**

10.1 The Site is mainly zoned "R(D)" (76.7%) with a small portion zoned "R(C)" (23.3%) on the respective OZP. The planning intention of "R(D)" zone is

primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The “R(C)” zone is intended primarily for low-rise, low density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The proposed temporary place of recreation, sports or culture for a period of 5 years is not in conflict with the planning intention of the “R(C)” and “R(D)” zones and would not jeopardise the long term development of the Site.

- 10.2 The Site is located in an area predominantly rural in setting. The proposed temporary place of recreation, sports or culture development is therefore not incompatible with the general character of the area. Besides, no permanent structures as proposed by the applicant will be built on-site. So it would not jeopardise the long term development of the Site.
- 10.3 There is no objection/adverse comments from Government departments concerned, including DEP, DAFC, CHE/NTW of HyD, AC for T/NT of TD and CTP/UD&L, PlanD. The development is not expected to generate significant environmental, ecological, traffic, drainage and landscape impacts on the surrounding areas. As advised by DEP, the proposed development, if without proper mitigation measures in place, may create environmental nuisances to the residents in the surrounding areas. He also considers it necessary to ensure the implementation of the environmental mitigation measures, such as prohibiting the use of loud speakers as proposed by the applicant and to monitor the effectiveness of such measures. As such, sympathetic consideration may be given for a temporary approval for 5 years. The technical requirements of concerned Government departments could be addressed by appropriate approval conditions in paragraph 11.2 below).
- 10.4 There are 2 public comments objecting to the application as summarized in paragraph 9 above. The planning considerations and assessments in paragraphs 10.1 to 10.3 above are relevant.

## 11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 above and having taken into account the public comment mentioned in paragraph 9, the Planning Department has no objection to the proposed place of recreation, sports or culture on a temporary basis for a period of 5 years.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until **20.7.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no operation between 6:00pm to 11:00am on Mondays to Fridays, as

proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation between 7:00pm to 10:00am on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no use of public announcement system, no BBQ activity and food selling, as proposed by the applicant, are allowed on the Site during the planning approval period;
- (d) the provision of fencing of 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 20.1.2019**;
- (e) the submission of a revised 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 20.1.2019**;
- (f) in relation to (e) above, the implementation of the revised 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 20.4.2019**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 **20.1.2019**;
- (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 **20.4.2019**;
- (j) the submission of a landscape proposal including a tree preservation scheme within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **20.1.2019**;
- (k) in relation to (j) above, the implementation of the landscape proposal including a tree preservation scheme within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **20.4.2019**;
- (l) if any of the above planning conditions (a), (b), (c) or (g) 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;

- (m) if any of the above planning conditions (d), (e), (f), (h), (i), (j) or (k), 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
- (n) 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**.

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

the proposed development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also not in line with the planning intention of the "R(C)" zone which is intended primarily for low-rise, low density residential developments. There is no strong planning justification for a departure from such planning intention even on a temporary basis.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

## **13. Attachments**

<b>Appendix I</b>	Application form received on 21.5.2018
<b>Appendix Ia</b>	Further information on traffic arrangement and operation mode received on 5.7.2018
<b>Appendix Ib</b>	Further information on application use and the percentage of the Site reserved for hobby farm purpose received on 11.7.2018
<b>Appendix Ic</b>	Further information on the clarification of application use received on 12.7.2018
<b>Appendix II</b>	Previous applications covering the application site

<b>Appendix III</b>	Detailed comments of concerned Government departments
<b>Appendix IVa &amp; b</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</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 4c</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2018**