

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

**APPLICATION NO. A/YL-TT/417**

- Applicant** : Ms. CHAN Mo-kan represented by R-riches Property Consultants Limited
- Site** : Lots 1403, 1404, 1406, 1408, 1409, 1410 (Part), 1411, 1412, 1413 RP (Part), 1419 (Part), 1420 (Part), 1441 and 1447 RP in D.D. 117 and Adjoining Government Land, Tai Tong, Yuen Long, New Territories
- Site Area** : 5,310.4 m<sup>2</sup> (about) (including about 280 m<sup>2</sup> of Government land)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
- Zoning** : “Agriculture” (“AGR”) (about 91%)  
“Green Belt” (“GB”) (about 5%)  
“Open Storage” (“OS”) (about 4%)
- Application** : 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 temporary place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). According to the notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use in “AGR” and “GB” zones which requires planning permission from the Town Planning Board (the Board); whereas the said use is neither a Column 1 nor Column 2 use in the “OS” zone on the OZP and temporary use not exceeding 3 years requires planning permission from the Board. The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a to A-4d**).
- 1.2 The northern portion of the Site, which falls entirely within the “AGR” zone, is subject to a previous application (No. A/YL-TT/394) by the same applicant for the same use, was approved by the Rural and New Town Planning Committee (the

Committee) with conditions on a temporary basis for 3 years on 9.12.2016; however, the application was subsequently revoked due to non-compliance with approval conditions. Details of the previous application are at paragraph 6 below and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same use on a larger site where a minor portion encroaches into the “GB” and “OS” zones in which 3 new structures are being proposed.

1.3 The Site is accessible via a local track leading from Tai Tong Shan Road to its southeast and a pedestrian ingress/egress abutting Tai Tong Shan Road (**Plan A-2** and **Drawing A-1**). According to the applicant, the majority of the Site will be for farm use or on soil floor. Concrete paving floor will only occupy about 5.49% of the Site (**Drawing A-2**). The hobby farm’s members could cultivate farm plots upon payment of a monthly fee. Customers could also pick vegetables grown by the staff. The maximum capacity of the hobby farm would be 80 people per day as limited by the membership scheme. Private car parking spaces on the Site are available for reservation online. The applicant undertakes that the use of public announcement system, portable loudspeakers or any form of audio amplification system will be prohibited at the Site. A lot index plan with vehicular access, a site layout plan, a landscape and tree preservation plan, a drainage plan, and a fire service installations plan submitted by the applicant are at **Drawings A-1 to A-5** respectively.

1.4 The major development parameters are as follow:

Major Development Parameters	Previously Approved Application No. A/YL-TT/394 (a)	Current Application No. A/YL-TT/417 (b)	Difference (b)-(a)
Applied Use	Temporary Place for Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years		---
Site Area	4,654.4m <sup>2</sup> (about)	5,310.4m <sup>2</sup> (about)	+656m <sup>2</sup>
No. of Structures	6 (for portable toilet, site office and reception, agriculture teaching centre, agriculture activities centre and plant sales office, seed and farm tool storage and farmer rest room uses)	9 (for portable toilet, site office and reception, greenhouses, seed and farm tool storage, farmer rest room and lounges uses)	+3
Total Floor Area	345.5m <sup>2</sup>	435.5m <sup>2</sup>	+90 m <sup>2</sup>
Covered Area Ratio	7.4%	8.2%	+0.8%
Paved area ratio	Paved: 6.2% Unpaved: 93.8%	Paved: 5.4% Unpaved: 94.6%	---
Height of Structures	3m to 3.5m (1 storey)		---
No. of Parking Spaces	23 (for private cars)		---
No. of Loading/Unloading Space	1 (for light good vehicles)		---
Operation Hours	9:00 a.m. to 6:00 p.m. everyday		---

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

- (a) Application Form with Appendix and Plans received on 13.11.2018 (Appendix I)
- (b) Further Information dated 8.3.2018 providing new drainage and fire service installations (FSIs) proposals, and a revised landscape proposal (Appendix Ia)
- (c) Further Information dated 12.3.2018 providing a new run-in/out proposal (Appendix Ib)
- (d) Further Information dated 19.4.2018 providing a revised landscape and tree preservation proposal (Appendix Ic)
- (e) Further Information dated 20.4.2018 providing response to departmental comments (Appendix Id)
- (f) Further Information dated 24.4.2018 clarifying the use of the “GB” portion of the Site, the background of the application, and undertaking no unapproved use to be carried out at the Site (Appendix Ie)

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

The justifications put forth by the applicant in support of the application are detailed in the Appendix of the Application Form at **Appendix I** and the Further Information at **Appendices Id and Ie**. They are summarized as follows:

- (a) The applied development provides a recreational place to the public for leisure. It offers a place where members can rent farm plots and enjoy the green environment that allows people with different backgrounds to connect with the nature and experience cultivation. It will also revitalise the land without deviating from agriculture use.
- (b) The applied development is restricted to members only and accommodates a maximum of 80 persons per day. The farm is divided into farm plots and rented to the members for farming. The farmers teach members about farming and be responsible for fertilization and irrigation. Also, part of the farm is used for growing vegetables which can be picked by members. Any unapproved uses will not be carried on after the approval of the current application.
- (c) The applicant operates a parking management scheme for better traffic arrangement, whereby visitors have to reserve a parking space in advance via the internet. In the event where all the on-site parking spaces are occupied, additional visitors arriving by private transport are arranged to park at the nearby public vehicle parks. Escort service by 7-seater car will be provided to transport visitors to/from the Site. The Site is also accessible by public transport (e.g. minibus from Yuen Long to Tai Tong). No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site.
- (d) The use of public announcement system, portable loudspeakers or any form of audio

amplification system will be prohibited at the Site to minimize nuisance to nearby sensitive receivers.

- (e) A minor portion of the Site falls within the “GB” zone, which will be used as circulation area and planting of trees.
- (f) Revocation of the previous application (No. A/YL-TT/394) was due to lack of professional and financial support to comply with the concerned approval conditions by the time limit. For the current application, financial support has been obtained to employ professional consultancy.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a notice of application near the site entrance and sending the notice to Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Background**

As the previous planning application (No. A/YL-TT/394) on the Site was revoked, investigation is underway to ascertain whether the current use of the Site constitutes an unauthorized development under the Town Planning Ordinance. If confirmed, enforcement action would be instigated.

### 5. **Town Planning Board Guidelines**

For “GB” zone, Town Planning Board Guidelines for Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) are relevant. The relevant assessment criteria are summarized as follows and detailed in **Appendix II**.

### 6. **Previous Application**

- 6.1 The northern part of the Site, which falls entirely within the “AGR” zone, is involved in one previous application (No. A/YL-TT/394) by the same applicant for the same use. Details of this application are summarized at **Appendix III** and the location is shown at **Plan A-1**.
- 6.2 Application No. A/YL-TT/394 for temporary place of recreation, sports and culture (hobby farm) by the same applicant was approved with conditions by the Committee on 9.12.2016 for a period of 3 years. However, the planning permission was subsequently revoked on 9.6.2017 due to non-compliance with time-limited approval conditions requiring the provision of boundary fence, and the submission and implementation of tree preservation and landscape, drainage, and FSIs proposals.

- 6.3 Compared with the last application, the current application is submitted by the same applicant for the same use on a slightly larger site where a minor portion encroaches into the “GB” and “OS” zones in which 3 new structures are being proposed.

## 7. Similar Application

There is 1 similar application (No. A/YL-TT/353) for proposed temporary place of recreation, sports or culture uses (hobby farm) for a period of 3 years within the same “AGR” zone. The proposed development involved pond/land filling and the construction of 13 structures with roofed-over area of about 23.6% (2,195 m<sup>2</sup>) of the site. The application was rejected by the Committee on 18.9.2015 on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate no adverse landscape impact; and setting of an undesirable precedent. Details of the application is summarized at **Appendix IV** and the location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible via a local track leading from Tai Tong Shan Road to its southeast and a pedestrian ingress/egress abutting Tai Tong Shan Road (**Plan A-2**);
- (b) occupied by the applied use without valid planning permission; and
- (c) farm shop, playground and barbecue spot, which are not under application, are found in the northern portion of the Site (**Plans A-2, A-4c and A-4d**).

8.2 The surrounding areas have the following characteristics:

- (a) to its north, northeast and east within the subject “AGR” zone are largely rural in character predominated by fallow/cultivated agricultural land and unused/vacant land;
- (b) to its northeast within the “AGR” zone is an open storage yard, which is suspected unauthorized development subject to enforcement action taken by the Planning Authority;
- (c) to its southeast is the area zoned “GB” where burial urns and electric tower can be found; and
- (d) to its west and northwest in the area zoned “OS” are mainly warehouses and open storage yards interspersed with unused/vacant land and vacant structure.

## 9. Planning Intentions

- 9.1 The planning intention of the “AGR” zone 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.

- 9.2 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.3 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodate in conventional godown premises.

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

- 10.1 The following government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site consists of 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) No permission is given for occupation of Government land (GL) (about 280m<sup>2</sup> subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
  - (c) The Site is accessible to Tai Tong Shan Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way.
  - (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 her office to permit the structures to be erected or regularize any irregularities onsite. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by her department acting in the capacity as landlord at its sole discretion and there is no guarantee that such application(s) will be approved. If the 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 her department.

## **Traffic**

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

- (a) The land status of the access road/path/track leading to the Site from Tai Tong Shan Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.
- (d) He has no comment on the applicant's submission on 12.3.2018 regarding the run-in/out proposal (**Appendix Ib**) and provision of run-in/out from the traffic engineering viewpoint subject to the satisfaction of the Highways Department.

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

- (a) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage facilities should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Shan Road.
- (d) Since the run-in/out is proposed to be formed in accordance with the Highways Standard Drawings H1113B and H1114A, the run-in/out proposal (**Appendix Ib**) is considered satisfactory for implementation.

## **Nature Conservation and Agriculture**

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

- (a) From agricultural point of view, he has no strong view on the hobby farm development on the understanding that part of the Site will be used for farming activities. Nevertheless, should the application be approved, the applicant should be advised to preserve the existing trees on GL. If trees on GL would unavoidably be affected by the development, prior approval for tree felling should be obtained from DLO/YL, LandsD.

- (b) It is noted that the Site falls largely within “AGR” and “GB” zones and is currently a hobby farm. According to our record, extensive site clearance, land filling and excavation works were conducted in the Site and its surrounding area in June 2016 (**Plans A-3a and A-3b**). DLO/YL, LandsD also received public complaint concerning tree felling activities next to Tai Tong Shan Road where new access leading to the Site was formed in August 2016. The history of unauthorized development/activities involved in the Site, if any, should be taken into account among others when considering the application.

### **Environment**

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

- (a) Provided that the applicant would minimize any noise from the applied use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system 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) The applicant is also 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” to minimize any potential environmental nuisance.
- (c) He would like to remind that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide adequate supporting infrastructure including waste/wastewater collection and disposal facilities for the proper collection, treatment and disposal of waste/wastewater generated from the applied use.

### **Landscape**

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

- (a) He has reservation on the application from the landscape planning perspective although the application is not entirely incompatible to the landscape character and planned use of the area.
- (b) The Site is located to the north of Tai Tong Shan Road and to the west of Tai Lam Country Park, and lies in an area zoned “AGR”, “GB” and “OS”. The Site is subject of previous application No. A/YL-TT/394 to which he had reservations from the landscape planning perspective. Application No. A/YL-TT/394 was subsequently revoked due to non-compliance with approval conditions including landscape related conditions. The current application is seeking planning permission for temporary hobby



farm use for a period of 3 years on a larger site by the same applicant.

- (c) With reference to the site photos of 21.11.2017 and 5.12.2017, and aerial photo of 2016, it is observed that the Site is primarily dirt paved with existing large trees within and adjoining the Site. The applied use appears to be already in operation. The Site is situated in an area of rural fringe landscape character disturbed by temporary structures and open storage yards. The area to the east of the Site is generally vegetated woodland.
- (d) When comparing the aerial photo of 2015 (**Plan A-3b**) with the site photos, the Site was originally vegetated with trees and shrubs but the vegetation within the Site and its immediate vicinity is observed to be removed and replaced by access road, parking and farming plots. Apparent site modification (with ground works) is observed with timber decking, gravelled areas found but not mentioned in the “paved area ratio”. Due to lack of a tree survey prior to the site modification, the overall landscape impact cannot be ascertained.
- (e) Approval of the application would set an undesirable precedent encouraging other similar applications to modify the sites before planning permissions are obtained. The cumulative impact of which would likely lead to the general degradation of the rural fringe and country park character.
- (f) Should the Board approve this application in view of the above, he would recommend the landscape condition requiring the submission and implementation of a revised tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Board.
- (g) Other advisory comments are at **Appendix V**.

### **Drainage**

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

- (a) He has no objection in principle to the applied development.
- (b) He has the following comments on the submitted drainage proposal (**Appendix Ia** and **Drawing A-4**):
  - (i) The existing drainage facilities, to which the stormwater of the development from the Site would discharge, is not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposed works. In the case that it is a local village drains, District Officer, Yuen Long should be consulted.

- (ii) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
  - (iii) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
  - (iv) The applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
  - (v) Other detailed comments are at **Appendix V**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Fire Safety**

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

- (a) The FSIs proposal submitted by the applicant (**Appendix Ia** and **Drawing A-5**) is considered acceptable to his department.
- (b) The applicant is advised that the installation/maintenance/modification/repair work of FSI shall be undertaken by a registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.

### **Water Supply**

#### 10.1.9 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards.

### **Building Matters**

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

The applicant's attention is drawn to the following points:

- (i) 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 should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (ii) For UBW erected on leased land, enforcement action may be taken by 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 BO.
- (iii) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (iv) If the site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Electricity Supply**

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

Based on the information provided, the Site will be within the preferred working corridor of the 400kV extra high voltage overhead lines as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) published by the Planning Department. He has no objection in principle to the application subject to the following conditions pertaining to electricity supply safety and reliability, being strictly complied by the applicant and his contractors:

- (a) The applicant should refer to the requirements of minimum safety clearance, minimum vertical clearance and preferred working corridor of the concerned overhead lines as stipulated in Clause 2.3.5, 2.3.6 and 2.3.14 under Chapter 7 - Utility Services of the HKPSG published by PlanD and ensure they shall be maintained at

any time during and after construction.

- (b) No scaffolding, crane and hoist shall be built or operated within 6m from the outermost 400kV conductors at all times. Warning notices should be posted at conspicuous locations to remind operators and workers of the site boundary. CLP Power shall be consulted on the safety precautions required for carrying out any works near the concerned overhead lines.
- (c) In any time during and after construction, CLP Power shall be allowed to get access to the working corridor area of the concerned overhead lines for carrying out any operation, maintenance and repair work including tree trimming.
- (d) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.
- (e) As regards the electric and magnetic fields arising from the transmission overhead lines, the applicant should be warned of possible undue interference to some electronic equipment in the vicinity, if any.

### **Others**

- 10.1.12 Comments of the Chief Engineer/Cross-Boundary and Infrastructure Development, Planning Department (CE/CID, PlanD):

CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation" (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

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

- 10.1.13 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

The local consultation has been completed and his office has not received any comments, from the village representatives in the vicinity regarding the application.

- 10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Leisure and Cultural Services (DLCS).

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

- 11.1 On 21.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 12.12.2017, a total of 4 comments, including one supportive comment from the Chairman of Shap Pat Heung Rural Committee (**Appendix VI-1**), and three opposing comments from World Wide Fund for Nature Hong Kong, an individual, and Designing Hong Kong Limited respectively (**Appendices VI-2 to VI-4**).
- 11.2 One commenter supports the application on the grounds of boosting rural economy; more choices of eco-tourism; and better utilization of land.
- 11.3 The other commenters object to the application for the following reasons:
- (a) The application is not in line with the planning intention of the “AGR” zone as “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes.
  - (b) Approval of the current application would encourage “destroy first, build later” activities. Vegetation was found cleared within the portion zoned “GB” on the Site and subsequently paved with concrete. The Board should reject the application so as to discourage such approach and not to set a bad precedent.
  - (c) The applicant did not comply with the approval conditions in the last application (No. A/YL-TT/394). In particular, submission of FSIs proposal is crucial as in safeguards personal safety of the visitors.

## **12. Planning Considerations and Assessments**

- 12.1 The subject application is for temporary place of recreation, sports or culture use (hobby farm) for a period of 3 years. The majority of the Site (about 91%) is zoned “AGR” on the OZP whereas there is a slight encroachment into the “GB” (about 5%) and “OS” (about 4%) zones compared with the last approval.
- 12.2 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 cultivation as well as some structures for ancillary use. DAFC has no objection to the application from the agriculture point of view. The proposal involving agriculture use is considered not entirely in conflict with the planning intention of the “AGR” zone.
- 12.3 Although land filling and vegetation clearance occurred at parts of the Site, the majority of the Site (about 91.8%) will be uncovered and used for farming and associated ancillary uses, and only about 5.4% of the Site will be paved with concrete. The scale of the development under application involving 9 low-rise structures (with heights of 3m to 3.5m (1-storey) and roofed-over area of about 435.5m<sup>2</sup> (about 8.2% of the site area)) (**Drawing A-2**) is not entirely incompatible with the surrounding areas which are largely rural in character in the subject “AGR”

zone intermixed with warehouses and open storage yards in the subject “OS” zone (**Plan A-2**).

- 12.4 The nature, and scale of the proposed development will unlikely result in significant adverse environmental, traffic and drainage impacts on the surrounding areas. Government departments consulted, including C for T, DEP and CE/MN, DSD and DEMS have no adverse comments on the application. Whilst CTP/UD&L, PlanD has reservation on the application, the applied use is mainly agriculture use and involves mainly cultivation/landscaped area with limited structures and hard-paved area. To address the concern over landscape impact and the technical concern of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 12.5 Given previous approval for the same use had been granted to the Site, approval of the current application is in line with the previous decision. Nevertheless, the last approval (No. A/YL-TT/394) by the same applicant was revoked due to non-compliance with time-limited approval conditions, including those requiring the provision of boundary fence and the submission and implementation of tree preservation and landscape, drainage and FSIs proposals. According to the applicant, the failure to comply with the time-limited conditions was due to lack of financial and professional support. For the current application, the applicant has secured financial support to employ professional consultancy. In fact, the applicant has submitted the aforesaid proposals (**Drawings A-3 to A-5** respectively). CE/MN, DSD and D of FS have accepted the respective proposals or have no adverse comments on the application. In view of this, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with associated approval conditions. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 There is 1 similar application (A/YL-TT/353) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years in the same “AGR” zone previously rejected mainly on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate no adverse landscape impact; and setting of an undesirable precedent for similar applications within the “AGR” zone. However, the development under the rejected application involves larger roofed-over area (2,195m<sup>2</sup>) and also pond/land filling.
- 12.7 Since the hobby farm is already in operation, the applicant will be advised that prior planning permission should have been obtained before continuing the applied use at the Site. Should the application be approved, the applicant should also be advised that the development/uses not under application (i.e. farm shop, playground and barbecue spot uses) which currently exist on the Site are not condoned by the approval.

- 12.8 There are 4 public comments (**Appendices VI-1 to VI-4**) received during the statutory publication period supporting or opposing the application on the grounds as summarized in paragraph 11 above. For the concern over vegetation clearance within the “GB” zone, it should be noted that the area only constitutes about 5% of the Site and would be on soil floor and largely uncovered for circulation area and planting of trees. For other concerns, the planning considerations and assessments in paragraph 12.1 to 12.7 are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as mentioned in paragraph 11, the Planning Department considers that the temporary place of recreation, sports or culture (hobby farm) could be tolerated for a period of 3 years.
- 13.2 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 4.5.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no public announcement system, portable loudspeakers or any form of audio amplification system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) the provision of boundary fence on the site within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.8.2018;
- (f) the implementation of the accepted run-in/out 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 4.11.2018;
- (g) the submission of a revised tree preservation and landscape proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.8.2018;
- (h) in relation to (g) above, the implementation of the 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 4.11.2018;

- (i) the submission of a revised drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.8.2018;
- (j) in relation to (i) above, the implementation of the 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 4.11.2018;
- (k) in relation to (j) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (l) the implementation of the accepted 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 4.11.2018;
- (m) if any of the above planning conditions (a), (b), (c), (d) or (k) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (j) or (l) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (o) 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 at **Appendix VII**.

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

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.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant



or refuse to grant permission.

- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

## **15. Attachments**

<b>Appendix I</b>	Application Form with Appendix and Plans received on 13.11.2017
<b>Appendix Ia</b>	Further Information dated 8.3.2018 providing new drainage and fire service installations proposals, and a revised landscape proposal
<b>Appendix Ib</b>	Further Information dated 12.3.2018 providing a new run-in/out proposal
<b>Appendix Ic</b>	Further Information dated 19.4.2018 providing a revised landscape and tree preservation proposal
<b>Appendix Id</b>	Further Information dated 20.4.2018 providing response to departmental comments
<b>Appendix Ie</b>	Further Information dated 24.4.2018 clarifying the use of the “GB” portion of the Site, the background of the application, and undertaking no unapproved use to be carried out at the Site
<b>Appendix II</b>	Extract of Town Planning board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
<b>Appendix III</b>	Previous Application covering the Application Site
<b>Appendix IV</b>	Similar Application within the Same “AGR”, “GB” or “OS” Zones
<b>Appendix V</b>	Detailed Departmental Comments
<b>Appendices VI-1 to VI-4</b>	Public Comments received during the Statutory Publication Period
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Lot Index Plan with Vehicular Access
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	Drainage Plan
<b>Drawing A-5</b>	Fire Service Installations Plan

<b>Plan A-1</b>	Location Plan with Similar Application
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a and A-3b</b>	Aerial Photos
<b>Plans A-4a to A-4e</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**