

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/503

- Applicant** : Mr. CHAK Yu Kwong
- Site** : Lots 1391 and 1393 in D.D. 117, Tai Tong, Yuen Long, New Territories
- Site Area** : 889 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17 (currently in force)

Approved Tai Tong OZP No. S/YL-TT/16 (at the time of submission)
- Zoning** : “Green Belt” (“GB”)
[The zoning remains unchanged on the current OZP]
- Application** : Filling of Land for Permitted Agricultural Use (Apiary)

1. The Proposal

- 1.1 The applicant seeks planning permission to regularise the filling of land (about 0.1m in thickness) for permitted agricultural use (apiary) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “GB” zone, ‘Agricultural Use’ is a Column 1 use which is always permitted. However, any filling of land, including that to effect a change of use to any of those specified in Columns 1 and 2 or uses/developments always permitted under the covering Notes (except public works co-ordinated or implemented by Government, and maintenance, repair or rebuilding works), requires planning permission from the Town Planning Board (the Board). The majority of the Site has been paved with concrete without valid planning permission and the Site is currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the filling of land with concrete is to facilitate the proposed apiary use at the Site (**Drawings A-1 and A-2**). The Site is divided into two parts, each with separate accesses, to accommodate 57 beehives for keeping of *Apis cerana* (中華蜂) and 58 beehives for keeping of *Apis*

mellifera ligustica (意大利蜂) on the western and eastern portions of the Site respectively. No open storage activities will be carried out at the Site. Only private cars and light goods vehicles (LGVs) will enter/exit the Site. The applicant also pledges to reinstate the Site upon the closure of the proposed apiary. The site layout plans submitted by the applicant are at **Drawings A-1** and **A-2**.

- 1.3 The major development parameters of the proposed apiary, to which the applied filling of land would facilitate, are summarised as follows:

Site Area	889 m ² (about)	
Total Floor Area (Non-domestic)	180 m ² (about)	
No. and Height of Structures	<u>Western Portion</u> <ul style="list-style-type: none"> • 1 for storing and repairing of beehives and storing of beekeeping tools (5m, 1 storey) 	<u>Eastern Portion</u> <ul style="list-style-type: none"> • 1 for nurturing queen bees, collecting honey, processing royal jelly and bee glue (5m, 1 storey)
No. of Parking Space	1 (for private cars or LGVs) (3.5m x 7m)	

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

- (a) Application Form and plans received on 30.6.2020 **(Appendix I)**
- (b) Further Information (FI) received on 4.8.2020 responding to departmental comments **(Appendix Ia)**
- (c) FI received on 5.8.2020 clarifying the proposed operation **(Appendix Ib)**
- (d) FI received on 7.8.2020 providing revised plans and clarifying the proposed operation **(Appendix Ic)**
- (e) FI received on 12.8.2020 providing revised plans **(Appendix Id)**
- (f) FI received on 13.8.2020 explaining the applicant's beekeeping background and providing further justifications **(Appendix Ie)**
[(b) to (f) exempted from publication and recounting requirements]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** and FI at **Appendices Ia to Ie**. They can be summarised as follows:

The applicant first engaged in beekeeping at a young age and became a full-time

beekeeper after retirement. He has many years of experience in beekeeping. From his experience, bacterial/insect growth, geckos and toads living on soil ground and vegetated ground are generally harmful to beekeeping. As a precaution, the entire Site has been paved with a layer of concrete of about 0.1m in depth to facilitate the permitted apiary use.

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

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

4. Town Planning Board Guidelines

The 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 to this application. The relevant assessment criteria are summarised as follows and detailed at **Appendix II**:

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone;
- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) the design and layout of any proposed development should be compatible with the surrounding areas. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (d) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area; and
- (e) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

5. Background

The Site is subject to planning enforcement action against unauthorised development (UD) involving use for animals shelter. Enforcement Notice was issued to the concerned parties on 26.11.2019 requiring discontinuance of the UD. Subsequent site inspection revealed that the UD was discontinued. A Compliance Notice and a Reinstatement Notice (RN) (E/YL-TT/634) requiring reinstatement of the concerned land (i.e. to remove the leftovers, debris and hard paving (including concrete) on the

land and to grass the land) were issued on 20.5.2020 and 10.6.2020 respectively (**Plan A-2**). The RN will expire on 10.9.2020 and if it is not complied with, prosecution may be taken.

6. Previous Application

The Site is not involved in any previous application.

7. Similar Application

There is no similar application within the subject “GB” zone on the OZP.

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

8.1 The Site is:

- (a) accessible from Tai Tong Road to its northwest via a local track;
- (b) flat, fenced off and mostly paved with concrete without valid planning permission; and
- (c) currently vacant.

8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character comprising unused/vacant land, vegetated land, graves, burial urns, pond and residential structures; and
- (b) there are residential structures in the adjacent “Agriculture” (“AGR”) zone with the nearest ones located about 65m to the northwest of the Site.

9. Planning Intention

9.1 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.

9.2 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land/pond within the “GB” zone as these activities may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their comments on the application are summarised as follows:

Land Administration

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

- (a) The Site, i.e. Lot Nos. 1391 and 1393 in D.D.117 (the Lots) are Old Scheduled 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) Her office has taken lease enforcement actions against the Lots which were erected with unauthorised structures thereon. Warning letters were registered in the Land Registry on 10.7.2019 by Memorial Nos. 19071000710059 and 19071000710069.
- (c) Her office does not guarantee any right-of-way to the Lots.
- (d) Should planning approval be given to the planning application, the applicant shall apply to her office via the Agriculture, Fisheries and Conservation Department to permit any structures to be erected for agricultural use. Application(s) will be considered by her department acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application would be approved. If such application(s) is approved, it will be subject to such terms and conditions as may be imposed by her department.

Agriculture and Nature Conservation

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

- (a) She has no comment on the application from agriculture point of view. She also has no comment on whether soil ground is necessary for beekeeping purpose.
- (b) The Site falls within “GB” zone and is currently hard paved. According to the aerial photos from LandsD, the Site has been paved since 2011. The current application seeks to regularise the hard paving at the Site. Should the application be considered a “destroy first and develop later” case, it should not be encouraged from nature conservation

point of view.

Traffic

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Tong Road.

Environment

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

- (a) He has no objection to the application.
- (b) During construction, the applicant is advised to meet the relevant requirements in the Practice Note for Professional Person PN 1/94 “Construction Site Drainage” and “Recommended Pollution Control Clauses for Construction Contracts”, both available from his department’s website.
- (c) One substantiated environmental complaint concerning the Site was received in 2018 which was not related to the current proposed apiary use.

Landscape

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

- (a) She has reservations on the application from landscape planning perspective.
- (b) With reference to the site inspection conducted by her office on 14.7.2020, the Site is primarily concrete paved and there is an existing *Cinnamomum camphora* of significant size (diameter at breast height of about 1.2m and height of about 10m) in very good condition observed in western portion of the Site. According to the aerial photo of 2019 (**Plan A-3**), the Site is situated in an area of miscellaneous rural fringe landscape character dominated by woodlands with some open storage yards and temporary structures observed in the proximity. The proposed concrete paving on Site is considered not compatible with the landscape character of the surrounding natural environment.

- (c) When comparing the aerial photos of 2009 to 2019 and the site photos taken on 14.7.2020, substantial vegetation clearance, hard paving of the Site and construction of temporary structures have been carried out over the years. Significant landscape impact has taken place. Approval of the application would set an undesirable precedent to encourage similar applications to undertake vegetation clearance and site formation prior to obtaining planning approval. The cumulative impact of which would result in a general degradation of the landscape quality of the surrounding environment and undermine the planning intention of the “GB” zone.
- (d) The applicant should note the detailed comments at **Appendix IV**.

Drainage

10.1.6 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 the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.
- (c) The applicant should note the detailed comments at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority for the building works at the Site, he is not in a position to offer comments on the suitability of the use proposed in the application.
- (b) The applicant should note the detailed comments at **Appendix IV**.

Other

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

The applicant should note the detailed comments at **Appendix IV**.

District Officer's Comments

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

His office has not received any comment from the village representatives in the vicinity regarding the application.

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

- (a) Commissioner for Transport (C for T);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Fire Services (D of FS);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Head of Geotechnical Engineering Office (GEO), CEDD (H(GEO), CEDD); and
- (f) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 7.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments from Kadoorie Farm and Botanic Garden (KFBG), World Wide Fund for Nature Hong Kong (WWF) and one individual were received. KFBG queried the need for hard paving the Site for the proposed apiary and raised concerns on the cumulative impacts of setting a precedent for such development in the "GB" zone (**Appendix III-1**). WWF objected the application on the grounds that the application was a suspected 'Destroy First, Develop Later' case and approval of the application would set an undesirable precedent and likely encourage similar applications to clear and form land in the "GB" zone prior to obtaining planning permission (**Appendix III-2**). The individual also objected to the application on the grounds that the filling of land was unnecessary and there was no information on tree felling at the Site (**Appendix III-3**).

12. Planning Considerations and Assessments

- 12.1 The application is to regularise the filling of land (about 0.1m in thickness) for permitted agricultural use (apiary) at a site zoned "GB" on the OZP. The planning intention of the "GB" zone is primarily to define the limits of 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. While the subject filling of land is to facilitate a proposed agricultural use, which is always permitted within the “GB” zone, the applicant has not provided strong justifications to substantiate why hard paving the entire Site by concrete is needed to facilitate the proposed apiary. In this regard, the filling of land is not in line with the planning intention of the “GB” zone, and there is no strong planning justification in the submission for a departure from such planning intention.

- 12.2 The Site is situated in a rural area predominately of unused/vacant land and vegetated land. Although there are paved land to the west of the Site in the adjoining “AGR” zone, they were mainly formed by previous agricultural uses or occupied by residential uses (**Plan A-2**). The Site, located at the fringes of the subject “GB” zone, is generally of rural fringe landscape character. CTP/UD&L, PlanD has reservations on the application from landscape planning perspective as the vegetated area within the Site has been cleared and filling of land has taken place over the years. Approval of the application would set an undesirable precedent to encourage other similar applications to carry out vegetation clearance and site formation works prior to obtaining planning permission. The subject filling of land is thus generally not in line with the TPB-PG No. 10.
- 12.3 Other relevant departments, including C for T, CE/MN, DSD, DEP and H(GEO), CEDD have no objection to/no comment on the application. Significant adverse traffic, drainage, environmental and geotechnical impacts on the surrounding area are not expected.
- 12.4 There is no previous application within the Site nor similar applications within the subject “GB” zone for filling of land. Approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the landscape quality of the surrounding environment and undermine the planning intention of the “GB” zone.
- 12.5 There are three public comments received on the application during the statutory publication period, including two objecting comments, as summarised in paragraph 11 above. The planning considerations and assessments in paragraph 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for filling of land for permitted agricultural use (apiary) for the following reasons:
 - (a) the filling of land is not in line with the planning intention of the “GB” zone, which is primarily to define the limits or urban development areas by natural features and to contain urban sprawl. There is no

strong planning justification in the submission for a departure from such planning intention and the applicant also fails to justify the need for land filling; and

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

13.2 Alternatively, should the Committee decide to approve the application, no time clause for commencement of development is proposed as the filling of land under application has already been completed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission and 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 21.5.2021; and
- (b) if the above planning condition (a) 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.

Advisory clauses

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

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

- Appendix I** Application Form and plans received on 30.6.2020
- Appendix Ia** FI received on 4.8.2020
- Appendix Ib** FI received on 5.8.2020
- Appendix Ic** FI received on 7.8.2020

Appendix Id	FI received on 12.8.2020
Appendix Ie	FI received on 13.8.2020
Appendix II	Extract of TPB PG-No. 10
Appendices III-1 to III-3	Public Comments Received During Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan of the Western Portion of the Site
Drawing A-2	Site Layout Plan of the Eastern Portion of the Site
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photos
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2020**