

RNTPC Paper No. A/YL-TYST/921  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 19.10.2018

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

**APPLICATION NO. A/YL-TYST/921**

- Applicant** : 448 (Fish and Vegetable) Cultivation Limited represented by R-riches Property Investment Consultants Limited
- Site** : Lots 40, 130, 502 (Part), 503, 504, 506, 507, 508, 509, 510, 512, 544 and 2154 in D.D. 119 ~~and Adjoining Government Land~~, Lam Tai West Road, Yuen Long, New Territories
- Site Area** : 12,005 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11  
(at the time of submission of application)
- Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12  
(currently in force)
- Zoning** : “Green Belt” (“GB”)  
(No change to “GB” zone)
- Application** : Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 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 5 years (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied for the applied use without valid planning permission. The applicant claimed that the hobby farm is currently not in operation for renovation purposes (**Appendix Ib**).
- 1.2 The Site was the subject of 4 previous applications (No. A/YL-TYST/407, 507, 625 and 858). Applications No. A/YL-TYST/407, 507 and 625 which covered

part of the Site were approved by the Rural and New Town Planning Committee of the Board (the Committee) for place of recreation (war game playground) on a temporary basis. Application No. A/YL-TYST/858 which covered the entire Site for temporary place of recreation, sports or culture (hobby farm), picnic area, barbecue spot and tent camping ground for a period of 3 years was rejected by the Committee on 9.2.2018. Details of the previous applications are at paragraph 6 below and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for similar hobby farm use without picnic area, barbecue spot and tent camping ground uses on a smaller site, and the development parameters and site layout are different.

- 1.3 The Site is accessible from Lam Tai West Road to its northeast via a local access (**Plan A-2**). According to the applicant, the Site will be developed as a hobby farm for environmental education purpose. Fruit will be grown on the Site, i.e. strawberry and pineapple and will be grown by soil cultivation. It could help promote the importance of farming to the society, as well as to promote sustainable development. There will be guided tours. The Site would be open to public and can accommodate a maximum of 80 visitors. Majority of the Site would be farming area (56.4%), landscaping area (19.4%) and soil ground area for children playing field (8.6%) and carparking (9.8%). Only a minor portion (about 5.9%) would be hard-paved for circulation purpose. 9 structures (not exceeding gross floor area of 268.75 m<sup>2</sup> and building height of 3.5m would be erected for farmer resting shelters, agricultural education rooms and storage of farm tools. Small amounts of animals will be kept in the agricultural education rooms for visiting. A lot index plan with vehicular access, a site layout plan, a landscape plan, a paved-area ratio plan and a plan showing the existing natural stream submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the previously rejected application and the current application are different and as follows:

<b>Major Development Parameters</b>	<b>Previously Rejected Application No. A/YL-TYST/858 (a)</b>	<b>Current Application No. A/YL-TYST/921 (b)</b>	<b>Difference (b)-(a)</b>
Site Area	14,354 m <sup>2</sup> (about) (including about 160 m <sup>2</sup> of Government land (GL))	12,005 m <sup>2</sup> (about) (no GL involved)	-2,349 m <sup>2</sup> (about) (-19.6%)
Proposed Use	Temporary Place of Recreation, Sports or Culture (Hobby Farm), Picnic Area, Barbecue Spot and Tent Camping Ground for a Period of 3 Years	Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 Years	Similar hobby farm use without picnic area, barbecue spot and tent camping ground uses and apply for a longer period of time
<i>Hobby Farm:</i>	<i>1,949.7 m<sup>2</sup> (13.6%)</i>	<i>6,774 m<sup>2</sup> (56.4%)</i>	

<i>Landscaping:</i>	<i>1,887.2 m<sup>2</sup> (13.1%)</i>	<i>2,322 m<sup>2</sup> (19.4%)</i>	
<i>Children Playing Field:</i>	<i>242.4 m<sup>2</sup> (1.7%)</i>	<i>1,029 m<sup>2</sup> (8.6%)</i>	
<i>Circulation:</i>	<i>1804 m<sup>2</sup> (12.6%)</i>	<i>709 m<sup>2</sup> (5.9%)</i>	
<i>Car parking:</i>	<i>1,167.7 m<sup>2</sup> (8.1%)</i>	<i>1,171 m<sup>2</sup> (9.8%)</i>	
<i>Others:</i>		---	
<i>- Tent Camping:</i>	<i>1,241.2 m<sup>2</sup> (8.6%)</i>		
<i>- Picnic Area:</i>	<i>2,660.6 m<sup>2</sup> (18.5%)</i>		
<i>- Barbecue:</i>	<i>822.6 m<sup>2</sup> (5.7%)</i>		
<i>- Nature Reserve:</i>	<i>1,046.3 m<sup>2</sup> (7.3%)</i>		
<i>- Existing Pond:</i>	<i>1,532.4 m<sup>2</sup> (10.7%)</i>		
Grass-paved, covered by soil floor/ hobby farm/ existing ponds	12,940.4 m <sup>2</sup> (90.2%)	11,296 m <sup>2</sup> (94.1%)	
Hard-paved Area	1,413.6 m <sup>2</sup> (9.8 %)	709 m <sup>2</sup> (5.9%)	
Total Floor Area (Non-domestic)	266.75 m <sup>2</sup>	268.75 m <sup>2</sup>	+2 m <sup>2</sup> (+0.7%)
No. of Structures	17 (including covered barbecue spot, storage, and activities/show room)	9 (for farmer resting shelter, agricultural education room and storage of farm tools uses)	-8 (-89%)
Height of Structures	3 m (1 storey)	3.5 m (1 storey)	+0.5 m (+14.3%)
No. of Parking Spaces	20 (for private cars and light goods vehicles)	20 (for private cars)	The parking spaces are for private cars only in the current application
No. of Pick-up/ Drop-off Spaces	2 (for minibuses only)		---
No. of Loading/ Unloading Space	1 (for light goods vehicles)		---
Operation Hours	8:00 a.m. to 6:00 p.m. daily, including public holidays (for hobby farm, picnic and barbecue areas only)  24 hours daily,	9:00 a.m. to 6:00 p.m. daily, including public holidays	Different operation hours

	including public holidays (for tent camping area only)		
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1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with appendix and plans received on 30.8.2018 **(Appendix I)**
- (b) Further Information received on 27.9.2018 providing responses to the Transport Department's comments **(Appendix Ia)**
- (c) Further Information received on 3.10.2018 stating that the proposed development is currently not in operation and the applicant will strictly implement the proposed scheme **(Appendix Ib)**
- (d) Further Information received on 4.10.2018 confirming no excavation and land filling are allowed on the Site and no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers are allowed to be parked/stored on or enter/exit the Site **(Appendix Ic)**
- (e) Further Information received on 10.10.2018 stating the mitigation measures to avoid disturbance and pollution to the existing natural stream **(Appendix Id)**
- (e) Further Information received on 12.10.2018 providing information on types of crops will be grown and justification on the hard-paved area, as well as undertaking the Site will be reinstated to amenity area upon expiry of the planning permission **(Appendix Ie)**

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

The justifications put forth by the applicant in support of the application are detailed in the appendix page attached to the Application Form at **Appendix I**, and further information at **Appendices Ia, Ib, Ic, Id** and **Ie**. They can be summarized as follows:

- (a) The Site is zoned "GB" which place of recreation is a column 2 use. The applied use is temporary in nature and there is similar approved application to the south of the Site. Thus, it would not set an undesirable precedent for similar applications and will not frustrate the long term development of the "GB" zone.
- (b) Majority of the Site would be covered by grass or has a soil floor. Only a minor portion (709 m<sup>2</sup>) would be hard-paved. No excavation and land filling are allowed on the Site.
- (c) Loudspeakers and public announcement systems will not be used within the Site.

All existing trees will be well-preserved and all proposed trees are 600mm off the boundary fencing.

- (d) The proposed private car parking spaces are available for visitors only upon online booking and the applicant would arrange minibus services for visitors to/from the railway station. A minibus will leave the Site at 18:15 and staffs' vehicles will exit the Site after checking the Site at 18:30. Also, no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers are allowed to be parked/stored on or enter/exit the Site. Thus, adverse traffic impact is not envisaged.
- (e) The Site will be developed as a hobby farm for environmental education purpose and promote the importance of farming to the society, as well as to promote sustainable development. There will be guided tours. The visitors can learn farming knowledge, viewing the specimen of crops and visiting animals in the agricultural education rooms. The visitors can enjoy the fun of farming in the field and younger kids can play on the children playing field.
- (f) The proposed development is currently not in operation for renovation purposes. The applicant will strictly follow and implement the proposed scheme after approval is granted by the Board.
- (g) The existing natural stream adjacent to the Site would be fenced off to avoid visitors from reaching (**Drawing A-5**). Visitors would be required to carry away all rubbish and wastewater before leaving the Site. In addition, waste water buckets would also be provided at the Site for visitors to dispose of any waste water. These water buckets would be carried away by staffs to the nearest public toilet (within 1km away from the Site) for disposal.
- (h) The hard-paved area of the Site is about 709m<sup>2</sup> (5.9%) and is purely for circulation purposes. It provides easy access for visitors, especially children and elderly. If these areas remain as soil ground, the surface would be slippery during the rainy seasons. Therefore, the hard-paved area which occupied only minor portion of the Site is for safety purpose.
- (i) The Site will be reinstated to an amenity area by the applicant upon the expiry of the planning permission.

### **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 publishing newspaper notice and sending notice to the Ping Shan Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Background**

The Site is subject of planning enforcement action on unauthorised use for place of recreation, sports and culture (including picnic area, outdoor go-kart ground). Enforcement Notice (EN) was issued on 15.5.2018 requiring the concerned parties to discontinue the unauthorised development (UD) by 15.8.2018. The UD was discontinued upon EN expiration and the case is under the Planning Authority's monitoring.

#### **5. 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 summarized as follows and detailed at **Appendix II**:

- (a) there is a general presumption against development (other than redevelopment) in "GB" zone. In general, the Town Planning Board (the Board) will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (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 vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features.

#### **6. Previous Applications**

6.1 The Site was the subject of 4 previous applications (No. A/YL-TYST/407, 507, 625 and 858). Applications No. A/YL-TYST/407, 507 and 625 by a different applicant which covered part of the Site were approved by the Committee for place of recreation (war game playground) on a temporary basis. Application No. A/YL-TYST/858 by the same applicant which covered the entire Site for temporary place of recreation, sports or culture (hobby farm), picnic area, barbecue spot and tent camping ground for a period of 3 years was rejected by the Committee on 9.2.2018. Details of these applications are summarized at

**Appendix III** and the locations are shown on **Plan A-1**.

- 6.2 The first application (No. A/YL-TYST/407) was approved by the Board on review for a period of 2 years on 2.1.2009 mainly on sympathetic consideration that the site was mainly an abandoned agricultural field and no tree felling was proposed; mitigation measures were proposed by the applicant to prevent possible damages to the environment; there was a lack of similar recreational facilities; no local objection was received; and the traffic impact was insignificant and the potential environmental, landscape and drainage impacts could be monitored by imposing appropriate approval conditions. A shorter approval period of 2 years, instead of 3 years sought, was granted to monitor the situation on the Site. The subsequent renewal applications (No. A/YL-TYST/507 and 625) were approved with conditions by the Committee on 23.12.2010 and 21.12.2012 respectively. However, the planning permission under the application No. A/YL-TYST/625 was subsequently revoked on 3.7.2013 due to non-compliance with approval conditions requiring the submission of tree preservation and fire service installations proposals.
- 6.3 The last application (No. A/YL-TYST/858) for temporary place of recreation, sports or culture (hobby farm), picnic area, barbecue spot and tent camping ground for a period of 3 years was rejected by the Committee on 9.2.2018 mainly on the grounds of the development was not in line with the planning intention of " GB" zone which 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 and there is a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and the proposed development did not comply with the TPB Guidelines PG-No. 10 in that the proposed development would affect the existing natural landscape.
- 6.4 Compared with the last application (No. A/YL-TYST/858), the current application is submitted by the same applicant for similar hobby farm use without picnic area, barbecue spot and tent camping ground uses on a smaller site (**Plan A-1**), and the development parameters and site layout are different.

## **7. Similar Applications**

- 7.1 There are 4 similar applications (Nos. A/YL-TYST/358, 378, 484 and 782) for various place of recreation, sports or culture uses within the same "GB" zone or also straddling the adjacent "Residential (Group D)" ("R(D)") zone. Details of these applications are summarized at **Appendix IV** and the locations are shown on **Plan A-1**.
- 7.2 The first three applications (No. A/YL-TYST/358, 378 and 484) for temporary barbecue site cum green recreational playground; temporary war game field; and proposed temporary organic farm cum barbecue and leisure activity area respectively were rejected by the Committee on 22.6.2007, 20.6.2008 and 30.7.2010 respectively mainly on similar considerations of, among others, being not in line with the planning intention of "GB" (and "R(D)") zone(s) and insufficient information to demonstrate no adverse environment, landscape, traffic

and/or drainage impacts.

- 7.3 Application No. A/YL-TYST/782 for proposed temporary place of recreation, sports or culture (hobby farm) on an adjacent site for a period of 5 years by the same applicant as the current application was approved with conditions by the Committee on 27.5.2016 mainly on considerations of not in conflict with the planning intention of the “GB” zone; not incompatible with the surrounding areas; and no adverse environmental, traffic, agricultural and landscape impacts envisaged. The applicant has already complied with the conditions of submission and implementation of tree preservation and landscape proposal, and fire service installations proposals, as well as submission of drainage proposal. The conditions requiring provision of boundary fence, submission and implementation of run-in/run-out proposal, as well as implementation of drainage proposal are yet to be complied with.

## 8. **The Site and Its Surrounding Areas** (Plans A-1, A-2 and A-4a to A-4c)

8.1 The Site is:

- (a) accessible via a local access leading from Lam Tai West Road to its northeast (**Plan A-2**);
- (b) comprising 4 portions which are connected by internal footpaths; and
- (c) currently used for the applied use without valid planning permission. Yet, the applicant claimed that the hobby farm is currently not in operation for renovation purposes.

8.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas are mainly rural in character predominated by fallow agricultural land and unused land;
- (b) to the immediate east of the Site is a hobby farm operating with valid planning permission granted under application No. A/YL-TYST/782 by the same applicant; and
- (c) to its northeast are open storage of vehicles and parking of vehicles and to its further north is a war game field, which are suspected unauthorized development subject to enforcement action taken by the Planning Authority.

## 9. **Planning Intention**

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.

## **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 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.
- (b) The Site is accessible to Lam Tai West Road via Government land (GL) and private land. Her Office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, 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, 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. Applications for any of the above 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(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 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 at Lam Tai West 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 shall be consulted accordingly.

- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, vehicle queuing and reverse movement of vehicles on public road are allowed.

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 TD.
- (b) If any proposed run-in is agreed by TD, the applicant should provide the run-in/run-out at Lam Tai West Road 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.
- (c) According to the record of his department, there are railings alongside Lam Tai West Road and the proposed access arrangement will require removal or modification of the railings. The agreement of TD should be sought before commencement of the works. The removal and modification work shall be completed to the satisfaction of TD and his department. The run-in/run-out may affect roadside trees, LandsD and Leisure and Cultural Services Department should be consulted.
- (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) His department shall not be responsible for the maintenance of any access connecting the Site and Lam Tai West Road.

**Environment**

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

- (a) The applicant seeks planning permission for a temporary place of recreation, sports or culture (hobby farm) for a period of 5 years at an area zoned “GB” on the OZP. According to the applicant, the proposed development will not involve the use of any form of audio amplification system.
- (b) Provided that the proposed development would not involve the use of any form of audio amplification system so that no environmental nuisance will be caused to nearby sensitive receivers, he has no objection to the application from environmental planning perspective. The applicant is also advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

- (c) If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of his Department's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". It is obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures.

## **Landscape**

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

- (a) The Site is about 1.2 ha, located near Lam Tai West Road within an area zoned "GB" on the approved Tong Yan San Tsuen OZP No. S/YL-TYST/12. The northern portion of the Site involves 3 previously approved applications (No. A/YL-TYST/407, 507 and 625) for the war game playground use with approval conditions applied. Nevertheless, the last application (No. A/YL-TYST/858) submitted by the same applicant was rejected by the Board. The current application is seeking planning permission for hobby farm use for a period of 5 years.
- (b) Based on the information submitted and the site photos taken on 7.9.2018, the Site is located in a vegetated area with some woodlands. Shrubs and turf have been planted on some agricultural fields that have been formed/ tidied up. With reference to the aerial photos conducted in 2009, 2014 and 2015, it seems that the existing trees, shrubs and groundcovers at the Site were gradually removed and cleared prior to the application. According to the site visit conducted on 7.9.2018, it was observed that the proposed facilities, such as car park, playground, hard-paved area and associated structures, had already been implemented in place with site formation works conducted. Impact on existing landscape resources, such as topography and vegetation, had taken effect. In view of the above, she has some reservations to the application from the landscape planning perspective.
- (c) As shown in the site photos taken on 7.9.2018, some existing trees and landscape plantings are identified. Since the Site is adjacent to woodland and there is no major public frontage along the boundary, and the applicant has proposed to provide substantial farming area and landscaping area within the Site, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent. Should the Board approve the application, the applicant should be advised to maintain all the existing trees and landscape plantings within the Site at all times during the planning approval.

- (d) The Applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works such as felling, transplanting or pruning under lease.
- (e) The Applicant is reminded of the importance of undertaking proper tree care for the existing tree. Useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference in the following links:
- 護養樹木的簡易圖解:  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_Tree\\_Maintenance.pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)
  - 樹木管理手冊:  
[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)
  - 樹木風險評估及管理安排:  
[https://www.greening.gov.hk/tc/tree\\_care/tra\\_arrangements.html](https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html)
  - 護養樹木 保障安全:  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Chinese\\_Leaflet\\_Big\\_font\\_size\\_v1\\_2012\\_03\\_29.pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf)
  - 減低樹木風險的樹木護養簡易圖解 :  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)

### **Nature Conservation**

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

- (a) He notes that the Site comprises some disturbed areas covered with vegetation, maintained grassland and a small natural stream running from the southwest to the east of the Site, scattered with some mature trees and few individuals of precious plants. Mature woodland is found in the vicinity of the Site. Some paved paths are also noted immediately adjacent to or partly within the Site.
- (b) According to the applicant's submission, it is noted that the applied development would not involve any filling of pond/land, excavation or diversion of stream or felling of trees. The hard paved areas (mostly already paved) comprise a relatively minor portion of 5.9% of the Site. The applicant has also proposed measures to preserve the existing natural stream, for example, fencing off to avoid visitors from reaching. As such, he has no strong view on the application from nature conservation point of

view. Should the application be approved, the applicant should be advised to adopt appropriate measures to avoid causing disturbance or pollution to the existing stream within or immediately adjacent to the Site as well as the mature woodland in the vicinity of the Site. Trees within or adjacent to the Site should also be preserved. It is also advisable to plant native species instead of exotic species (i.e. the proposed 43 no. of *Lagerstroemia speciosa*) along the boundary of the Site, in order to match with the surrounding woodland which comprises mainly native species.

- (c) The Site falls within “GB” zone and possesses a potential for agricultural rehabilitation. As part of Site will be used for cultivation of fruits and the Site will be reinstated upon the expiry of planning application, he has no strong views against the application from agriculture point of view.

### **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 application 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 and implementation of drainage proposal and the maintenance of the implemented drainage facilities 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) He has no objection in principle to the application 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 following points:
  - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
  - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW) under BO. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with BO.
- (b) 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.
- (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 (B(P)R) 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 B(P)R at the building plan submission stage.

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

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

His Office has not received any comments from the locals on the application.

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

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (e) Commissioner of Police (C of P).

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

On 7.9.2018, the application was published for public inspection. During the first 3 weeks of the statutory public inspection periods which ended on 28.9.2018, 5 comments (**Appendices V-1 and V-5**) were received from the Kadoorie Farm and Botanic Garden Corporation and members of the public. The Kadoorie Farm and Botanic Garden Corporation (**Appendix V-1**) urges the Board to examine whether the rejection reasons of previous application No. A/YL-TYST/858 are applicable to the current application. Three members of public (**Appendices V-2 to V-4**) object to the application on grounds of the Site is located on “GB” zone; there is a previous rejected case for similar use on the Site and it is a ‘destroy first build later’ case. The remaining comment (**Appendix V-5**) requests the Board to defer the application for more information on environmental assessment, detailed proposal of the agricultural education room and storage of farm tools.

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

12.1 The subject application is for temporary place of recreation, sports or culture (hobby farm) for a period of 5 years 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. However, limited developments may be permitted if they are justified on strong planning grounds. The proposed hobby farm consists of farming area (56.4%), landscaping area (19.4%), soil ground area for children playing field (8.6%) and carparking (9.8%), and hard-paved circulation area (5.9%), as well as 9 structures for farmer resting shelters, agricultural education rooms and storage of farm tools purposes. The proposed hobby farm will not include any barbeque activity or tent camping. Hence, the proposal involving recreational use is considered not entirely in conflict with the planning intention of the “GB” zone.

12.2 Majority of the Site will be unpaved (about 94.1%) and mainly used for farming and landscaping (about 75.8%). The scale of the development under application involving 9 low-rise structures (with heights of 3.5m (1-storey) and total floor area of about 268.75 m<sup>2</sup>) (**Drawing A-2**) is not entirely incompatible with the surrounding areas which are largely rural in character and comprise predominantly agricultural land and unused land (**Plan A-2**).

12.3 There is no adverse comment on the application from concerned government departments, including C for T, CHE/NTW, HyD, DEP, DAFC, CE/MN, DSD and D of FS. The proposed development for farming and agricultural education purposes without land filling/excavation works under the application is not expected to generate significant environmental, ecological, traffic, drainage and other infrastructural impacts on the surrounding areas. Whilst CTP/UD&L, PlanD has reservations on the application from the landscape planning perspective as impact on existing landscape resources had taken place prior to the submission of the current application, the applicant has proposed to provide substantial farming area and landscaping area within the Site (about 9,096m<sup>2</sup>, 75.8% of the Site). To address the concerns on the technical requirements of 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 relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impacts.

- 12.4 The proposed development is generally in line with 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) that passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration; the design and layout of the proposed development is compatible with the surrounding areas; and the proposed development would not overstrain the capacity of existing and planned infrastructure.
- 12.5 The Committee has approved an application (No. A/ YL-TYST/782) submitted by the same applicant on 27.5.2016 for the same hobby farm use for a period of 5 years covering an adjacent site in the same “GB” zone. This application was approved mainly on the considerations of not in conflict with the planning intention of the “GB” zone; not incompatible with the surrounding areas; and no adverse environmental, traffic, agricultural and landscape impacts envisaged. The applicant has demonstrated effort to comply with the approval conditions and some approval conditions (i.e. submission and implementation of tree preservation and landscape proposal, and fire service installations proposals, as well as submission of drainage proposal) has been complied with since the granting of planning approval.
- 12.6 Whilst the previous application (No. A/YL-TYST/858) for temporary place of recreation, sports or culture (hobby farm), picnic area, barbecue spot and tent camping ground for a period of 3 years was rejected by the Committee on 9.2.2018, the applicant has revised the proposed scheme. Compared with the last application, the current application has a smaller area (about 1.2ha) and does not include picnic area, barbeque spot or tent camping ground. Besides, the hard-paved ratio has been decreased from 9.8% to 5.9% and the proposed structures have also been decreased from 17 to 9. Although there are also 2 applications (No. A/YL-TYST/358 and 484) for similar hobby farming activities in the same “GB” zone previously rejected by the Committee (**Plan A-1** and paragraph 7.2 refers), these 2 applications were rejected mainly on the grounds, among others, that there was insufficient information in the submission to demonstrate the proposed developments would not have adverse environmental, landscape, traffic and/or landscape impacts and there were adverse departmental comments. In this regard, the concerned departments have no adverse comments on the current application. Given that the Committee has approved an application (No. A/YL-TYST/782) for the same hobby farm use covering an adjacent site in the same “GB” zone, approval of the current application is also in line with the Committee’s previous decision.
- 12.7 Whilst the proposed development is currently not in operation, the Site has once

been operated without valid planning permission. The applicant will be advised that prior planning permission should have been obtained before commencing 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. racing field, tent camping ground and picnic area) which currently exist on the Site are not condoned by the approval.

12.8 There are 5 public comments (**Appendices V-1 and V-5**) received during the statutory publication period from the Kadoorie Farm and Botanic Garden Corporation and members of the public. The grounds are summarized in paragraph 11 above and the planning considerations and assessments in paragraph 12.1 to 12.6 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 5 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 5 years until 19.10.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no excavation and land filling, as proposed by the applicant, are allowed on the Site during the planning approval period;
- (b) 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;
- (c) no loudspeakers and public announcement systems will be used within the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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;
- (f) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 19.4.2019;
- (g) the submission of run-in/run-out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of

the Town Planning Board by 19.4.2019;

- (h) in relation to (g) above, the implementation of run-in/run-out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 19.7.2019;
- (i) all existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a 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 19.4.2019;
- (k) in relation to (j) above, the implementation of the 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 19.7.2019;
- (l) in relation to (k) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (m) 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 19.4.2019;
- (n) in relation to (m) 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 19.7.2019;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (i) or (l) 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;
- (p) if any of the above planning conditions (f), (g), (h), (j), (k), (m) or (n) 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
- (q) 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 VI**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejections are suggested for Members' reference:

- (a) the development is not in line with the planning intention of “ GB” zone which 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 and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the proposed development does not comply with the TPB Guidelines PG-No. 10 in that the proposed development would affect the existing natural landscape.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the planning 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 30.8.2018  |
| <b>Appendix Ia</b> | Further Information received on 27.9.2018 providing responses to the Transport Department’s comments  |
| <b>Appendix Ib</b> | Further information received on 3.10.2018 stating that the proposed development is currently not in operation and the applicant will strictly implement the proposed scheme   |
| <b>Appendix Ic</b> | Further Information received on 4.10.2018 confirming no excavation and land filling are allowed on the Site and no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers are allowed to be parked/stored on or enter/exit the Site |
| <b>Appendix Id</b> | Further Information received on 10.10.2018 stating the mitigation measures to avoid disturbance and pollution to the existing natural stream  |
| <b>Appendix Ie</b> | Further Information received on 12.10.2018 providing information on types of crops will be grown and justification on the hard-paved area, as well as undertaking the Site will be  |

reinstated to amenity area upon expiry of the planning permission

<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 applications covering the application site
<b>Appendix IV</b>	Similar applications within/straddling the same “GB” zone on the approved Tong Yan San Tsuen OZP
<b>Appendices V-1 to V-5</b>	Public comments received during the statutory publication period
<b>Appendix VI</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 Plan
<b>Drawing A-4</b>	Paved-area Ratio Plan
<b>Drawing A-5</b>	A Plan showing the Existing Natural Stream
<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 A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2018**