

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

**APPLICATION NO. A/YL-LFS/304A**

<b><u>Applicant</u></b>	Wider Link Investment Limited represented by Metro Planning & Development Company Limited
<b><u>Site</u></b>	Lots 1601 (Part), 1604, 1605, 1606, 1607, 1608, 1609, 1610 S.A, 1610 S.B, 1610 S.C, 1611, 1612, 1613 (Part), 1615, 1616 (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
<b><u>Site Area</u></b>	20,860 m <sup>2</sup> (about) (including about 200 m <sup>2</sup> of Government Land)
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8 and Draft Tin Shui Wai Outline Zoning Plan No. S/TSW/13
<b><u>Zoning</u></b>	“Green Belt” (“GB”) under Draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/8 (99%) and “Open Space (1)” (“O(1)”) under Draft Tin Shui Wai OZP No. S/TSW/13 (1%)
<b><u>Application</u></b>	Proposed Place of Recreation, Sports or Culture and Shop and Services (including Barbecue Spot, Refreshment Kiosk, Hobby Farming and Children Playground and Ancillary Public Car Park)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed place of recreation, sports or culture and shop and services including barbecue spot, refreshment kiosk, hobby farming, children playground and ancillary public car park (**Plan A-1**).
- 1.2 Majority part of the site (99%) falls within the “GB” zone on the draft Lau Fau Shan and Tsim Bei Tsui OZP, with a very small portion of 207 m<sup>2</sup> (1%) falls within the “O(1)” zone on the draft Tin Shui Wai OZP. The proposed place of recreation, sports or culture and shop and services, which includes barbecue spot, refreshment kiosk, hobby farming and children playground, are regarded as a ‘Place of Recreation, Sports or Culture’ which requires planning permission from the Town Planning Board (the Board) for development within the “GB” and “O(1)” zones on the respective OZPs.

- 1.3 The site is the subject of 3 previous applications (No. A/YL-LFS/10, 56 and 172) by different applicants for different uses. The last application No. A/YL-LFS/172 for proposed recreational development including barbecue spot, refreshment kiosk, hobby farming, fishing ground, children playground and ancillary public car park was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.3.2008. However, the approved development was not implemented and the planning permission lapsed on 8.3.2012. The site is currently vacant.
- 1.4 As shown on the schematic layout at **Drawing A-2**, the ingress/egress is located at the southern part of the site. Access to the site is via a vehicular track linking to Tin Wah Road (**Drawing A-1**). The eastern portion of the site is proposed for barbecue spot. Children playground and hobby farming will be located at the western part of the site. Two structures are proposed (all 1-storey and a maximum of 3m high), with a total floor area of about 220m<sup>2</sup>; the proposed refreshment kiosk (about 180m<sup>2</sup>) will be located at the southeastern part of the site and the proposed 24 mobile toilet (about 40m<sup>2</sup>) will be located in the southwestern part of the site. 70 ancillary car parking spaces and 2 loading/unloading spaces will be provided at the southern part of the site. Landscaping, fencing and drainage facilities will be provided on the site (**Drawings A-3 and A-4**). According to the applicant, only the area occupied by the refreshment kiosks will be hard-paved. No site formation and site paving works will be carried out at the remaining parts of the Site. He will unpave the Site, except the location of the refreshment kiosk. The operation hours of the proposed development is 11:00am to 11:00pm daily including public holidays. The proposed development is intended to accommodate 160 visitors at the same time. The peak hours will be about 3:00pm to 7:00pm on weekdays and public holidays.
- 1.5 Plans showing the layout of the site, landscape and tree preservation plan, drainage plan and catchment plan submitted by the applicant are shown in **Drawings A-2 to A-5**. A comparison between the previously approved scheme under application No. A/YL-LFS/172 and the current scheme is shown in **Drawing A-6**.
- 1.6 A comparison of the major development parameters of the current application and the last previously approved application is given in the following table:

<b>Major Development Parameters</b>	<b>Last Approved Application (A/YL-LFS/172)(a)</b>	<b>Current Application (A/YL-LFS/304) (b)</b>	<b>Difference (b) – (a)</b>
Site Area	about 20,972 m <sup>2</sup>	about 20,860 m <sup>2</sup>	-112 m <sup>2</sup>
Applied Use	Proposed Recreational Development (Including Barbecue Spot, Refreshment Kiosk, Hobby Farming, Fishing Ground, Children Playground and Ancillary Public Car Park)	Proposed Place of Recreation, Sports or Culture and Shop and Services (including Barbecue Spot, Refreshment Kiosk, Hobby Farming, Children Playground and Public Car Park)	No Fishing Ground

<b>Major Development Parameters</b>	<b>Last Approved Application (A/YL-LFS/172)(a)</b>	<b>Current Application (A/YL-LFS/304) (b)</b>	<b>Difference (b) – (a)</b>
No. of Structure(s)	2 (1) a refreshment kiosk (2) a site office of 3m high	2 (1) a refreshment kiosk (2) a mobile toilet of 3m high	-
Total GFA	180 m <sup>2</sup>	220 m <sup>2</sup>	+40 m <sup>2</sup>
Car Parking Spaces	94 parking spaces for private car and van	70 parking spaces for private car 2 loading/unloading bays for light goods vehicle	-24 parking spaces +2 loading/unloading bays

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

- (a) Application form received on 18.10.2017 **(Appendix I)**
- (b) Supplementary planning statement with site plan, location plan, layout plan, landscape & tree preservation plan, drainage plan and catchment plan **(Appendix Ia)**
- (c) Further information on paving and landscape received on 13.11.2017 **(Appendix Ib)**
- (d) Further information on landscape received on 23.11.2017 **(Appendix Ic)**
- (e) Further information on landscape received on 6.2.2018 **(Appendix Id)**
- (f) Further information on unpaving the Site received on 16.3.2018 **(Appendix Ie)**
- (g) Further information on mitigation measures received on 20.3.2018 **(Appendix If)**
- (h) Further information on removing hard-paving received on 26.3.2018 **(Appendix Ig)**

1.8 The application was originally scheduled for the consideration by the Committee on 8.12.2017. The Committee agreed on 8.12.2017 to defer a decision for 2 months as request by the applicant to allow sufficient time for the preparation of further information to address comments of Government departments. On 6.2.2018, the applicant submitted further information to reactivate the application. The application is therefore submitted to the Committee for consideration at this meeting.

## **2. Justification from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They can be summarized as follows:

- (a) The proposed development could provide an integrated recreational outlet for

the public, particularly the neighbouring residents in the nearby Tin Shui Wai New Town. It is therefore in line with the planning intention of the “GB” zoning for the area. The approval of the proposed development would relieve the demand of the residents for recreational activities in the community, as well as utilize the land resource properly.

- (b) The proposed development has satisfactorily fulfilled the Town Planning Board Guidelines for Application for Development within the Green Belt (TPB PG-No. 10).
- (c) The proposed development is similar to and compatible with the adjacent golf driving range as well as the barbecue spot, refreshment kiosk, hobby farming and playground under applications No. A/YL-LFS/40 and 74 respectively. The proposed use is also compatible with the surrounding environment.
- (d) Similar applications within the same “GB” zone have been approved by the Board indicates that the subject area is not unsuitable for recreational uses.
- (e) The previous applications No. A/YL-LFS/56 and 172 were approved by the Board on 28.7.2000 and 7.3.2008 for the similar use. The scale of the development is slightly smaller (less 112m<sup>2</sup>) than the previous one. The previous approvals in the same “GB” zone show that the site is suitable for recreational use which the general public will be benefited at large.
- (f) The result of preliminary technical proposals demonstrated that the adverse traffic, drainage, visual or environmental impacts generated by the proposed development would be insignificant. The applicant also proposes environmental mitigation measures such as no public announcement system, downward lighting system, restriction of operation hours, use of coconut shell charcoal to minimize the possible air, noise, odour and glare impacts to surrounding environment. The Board is requested to note the proposed mitigation measures which reflects the applicant’s sincerity to maintain the prevailing environmental, traffic, visual, landscape and drainage conditions.

### **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. 31) by giving notification to the current owner. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

- 4.1 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) is relevant to the application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, 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.

## 5. **Background**

Only the northern part of the Site was a previous enforcement case (No. E/YL-LFS/387) and the alleged unauthorized development (UD) was storage use. Upon discontinuation of UD, reinstatement notice (RN) was issued to the registered land owners on 14.9.2016. The said RN expired on 14.12.2016. As the required reinstatement works were reinstated, Compliance Notice for RN was issued on 7.11.2017 to the concerned notice recipients under the Town Planning Ordinance.

## 6. **Previous Applications**

- 6.1 The site is the subject of 3 previous applications No. A/YL-LFS/10, 56 and 172 submitted by different applicants. Details of these applications are summarised at **Appendix II** and their locations are shown in **Plan A-1**.
- 6.2 Applications No. A/YL-LFS/10 for pond filling for agricultural use (fruit tree plantation) was approved with conditions by the Committee on 23.8.1996. The planning permission lapsed on 24.8.1998. Application No. A/YL-LFS/56 for proposed recreational development including garden, fishing ground, barbecue spot, refreshment kiosk, public car park with ancillary facilities was approved with conditions by the Committee on 28.7.2000. However, the approved development had not been implemented and the planning permission lapsed on 29.7.2003. Application No. A/YL-LFS/172 for proposed recreational development including barbecue spot, refreshment

kiosk, hobby farming, fishing ground, children playground and ancillary public car park was approved with conditions by Committee on 7.3.2008. The approved development had not been implemented and the planning permission lapsed on 8.3.2012.

- 6.3 Comparing with the last approved application No. A/YL-LFS/172, the current application is submitted by a different applicant for a similar recreational use on a smaller site (-112 m<sup>2</sup>), deletion of fishing ground, an addition of 40m<sup>2</sup> GFA, 2 loading/unloading parking spaces and a deduction of 24 parking spaces for private car.

## 7. Similar Applications

- 7.1 There are 9 similar applications (No. A/YL-LFS/31, 39, 63, 86, 127, 135, 166, 278 and 302) within the same “GB” zone, in which 6 applications were approved by the Committee/Board and 3 rejected. Details of the similar applications are summarised at **Appendix III** and their locations are shown in **Plan A-1**.
- 7.2 The 3 rejected applications involved 3 different sites (**Plan A-1**). Application No. A/YL-LFS/31 for proposed pond filling and development of golf driving range with ancillary private club, conservation and recreation facilities was rejected by the Board upon review on 18.12.1998. Application No. A/YL-LFS/127 for proposed temporary roller skating rink was rejected by the Board upon review on 17.6.2005. Application No. A/YL-LFS/302 for proposed temporary Place of Recreation, Sports or Culture (Hobby Farm and Fishing Ground), which involved hard-paving (about 20%), was rejected by the Committee on 8.12.2017. The reasons for rejection for these applications mainly included not in line with the planning intention, not complying with the Town Planning Board Guidelines for "Application for Development within Green Belt Zone" in respect of extensive clearance of natural vegetation or affecting the natural landscape, insufficient information to demonstrate no adverse traffic, environmental and/or drainage impacts, and/or undesirable precedent.
- 7.3 For the 6 approved applications, they covered 4 sites (**Plan A-1**). Application No. A/YL-LFS/39 for proposed recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, public car park and ancillary uses at a site partly zoned “GB” and partly “V” was approved with conditions by the Committee on 14.5.1999 for 3 years mainly on the grounds of the applied development primarily rural in character and not affecting natural landscape; no filling of existing pond; compatible with the surrounding land uses and no adverse environmental and traffic impacts.
- 7.4 Application No. A/YL-LFS/63 for barbecue spot and refreshment kiosk with ancillary car park was approved by the Board upon review on 11.5.2001 for 1 year noting that, amongst others, the site was originally a military barrack and was subsequently left vacant and grown with weeds. Application No. A/YL-LFS/86 for a similar temporary refreshment kiosk and car park on the same site for a period of 3 years was approved with conditions by the

Committee on 14.6.2002. Application No. A/YL-LFS/135 for temporary refreshment kiosk and car park on the same site for a period of 3 years was approved by the Board upon review on 4.11.2005 after the applicant had agreed not to provide overnight accommodation. The application was revoked on 20.12.2005 due to non-compliance with approval conditions prohibiting overnight accommodation and erection of additional structures other than those approved.

- 7.5 Application No. A/YL-LFS/166 for temporary hobby farming (organic farm and education centre) for 3 years was approved by the Committee on 14.12.2007 taking into consideration that the applied use not in conflict with the planning intention of the “GB” zone, compatible with the rural character of the area and no significant traffic and environmental impacts expected. The approval was revoked on 14.9.2008 due to non-compliance with approval conditions regarding the submission of a revised drainage impact assessment, implementation of landscape and tree preservation proposals and provision of fire service installations.
- 7.6 Application No. A/YL-LFS/278 for temporary place of recreation, sports or culture (hobby farm) for 3 years was approved by the Committee on 20.11.2015 on similar considerations as A/YL-LFS/166. The approval was revoked on 27.1.2016 due to non-compliance with approval condition prohibiting land filling works.

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

8.1 The Site is:

- (a) currently vacant and hard-paved; and
- (b) accessed via a local track from Tin Wah Road (**Plan A-2**).

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north is a large piece of vacant and unused land on vegetated slopes;
- (b) to the immediate west is fallow agricultural land and vacant land;
- (c) to the immediate south are ponds, vacant land, a temple and unused land; and
- (d) to the immediate east is unused land and Tin Ying Road. Further east across the drainage channel is Tin Shui Wai New Town.

## **9. Planning Intention**

Majority (99%) of the site falls within an area zoned “GB” on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/8 while a very small portion (1%) encroaches

upon an area zoned “O(1)” on the draft Tin Shui Wai OZP No. S/TSW/13 (**Plan A-1**). The planning intention of “GB” zone is to define 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. However, limited development may be permitted if they are justified on strong planning grounds. The planning intention of the “O(1)” zone is primarily to provide outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

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

10.1 The following Government departments have been consulted and their views on the application received 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 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) No permission is given for occupation of Government land (GL) of about 200m<sup>2</sup> in area (subject to verification) included in the Site.
- (c) The Site is accessible to Tin Wah Road through GL only. Her office provides no maintenance work for the 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 planning approval be given to the planning application, the lot owners will need to apply to her office to permit the structures to be erected or regularize any irregularity on site. Besides, the applicant has to either exclude the GL from the application site or apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium fee, as may be imposed by LandsD.

### **Nature Conservation**

10.1.2 Comments of the Director of Agriculture, Fisheries and Conservation



(DAFC):

The applicant clarified in the FI (**Appendix Ib**) that only the location to be occupied by refreshment kiosk will be hard paved, and no site formation and site paving works will be carried out at the remaining part of the application site. As such, she has no strong view on the subject application from conservation point of view.

### **Environment**

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

Given the scale of development and site location, the proposed development, if without proper mitigation measures in place, may create environmental nuisances to the residents in the surrounding areas. In this regards, given the applicant has proposed measures in the planning statement and further information to address environmental nuisance, I have no in-principle objection to the application. However, there is a need to ensure the implementation of the environmental measures proposed in the further information and S2.3 of the planning statement and the peripheral drainage system in Figure 5 of the planning statement (**Appendix Ia**); and to monitor the effectiveness of such measures in mitigating any potential environmental nuisances (**Appendix If**).

### **Drainage**

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

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

### **Traffic**

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient maneuvering spaces shall be provided within the Site. No vehicles are allowed to queue back to the public roads or reverse onto/from the public roads

- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

10.1.6 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) HyD shall not be responsible for the maintenance of any access connecting the Site and nearby Tin Wah Road.

**Landscaping and Urban Design**

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

**Landscaping**

- (a) The Site, located to the east of Tin Heng Estate, lies in an area mainly zoned "GB" on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/8, and partly zoned "O(1)" on the draft Tin Shui Wai OZP No. S/TSW/13.
- (b) With reference to his site records and aerial photo of 2015, it is observed that the Site is formed and vegetated with wild grasses. The Site is situated in an area of rural fringe character disturbed by open storage, a woodland is observed to the immediate west of the Site, fish pond to the immediate south, there is scattered trees and a nullah to the east and further east, while a plot of active farm is observed to the north east of the site.
- (c) When comparing the aerial photos of 2000, 2001 and 2004, it is observed that the majority of the existing fish ponds within the Site have been filled, while the Site was completely filled around 2004.
- (d) The entire site is observed to be reclaimed by wild vegetation including trees and shrubs in 2009, but majority of the site was hard paved with concrete and used as open storage of vehicles in 2012. Hence significant adverse landscape impact has taken place.
- (e) Approval of the application may set an undesirable precedent likely to encourage other similar applications to clear the site prior to planning permission is obtained. The cumulative impact of which would lead to the general degradation of the rural fringe landscape character and the intactness of the green

belt zone. The planning intention of this zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl. There is a general presumption against development within this zone.

- (f) Hence he has reservations on the application from the landscape planning perspective and his technical comments on the tree preservation and landscape proposal are in **Appendix IV**.
- (g) Should the TPB approve the application, in view of the above, he would recommend the following landscape condition to be included in the permission:

The submission and implementation of a revised tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board

- (h) The applicant is reminded that approval of the landscape proposal under the application or approval condition does not imply approval of tree works such as felling/transplanting or pruning under lease. Any proposed tree preservation/removal scheme involving trees outside site in particular, the applicant shall be reminded to approach relevant authority/government department(s) direct to obtain the necessary approval.

### **Urban Design**

- (i) According to the application, the proposed development involves open-air barbecue spot, children's playground, hobby farm, a covered refreshment kiosk of approximately 3m high (gross floor area not exceeding 180m<sup>2</sup>) and 24 movable toilets of approximately 2.5m to 3m high (GFA not exceeding 40m<sup>2</sup>).
- (j) The Site is located at the eastern fringe of Lau Fau Shan. To the immediate east is an area zoned "O(1)" while Tin Shui Wai new town is at its further east across the river. The proposal is considered not incompatible with the surrounding context. Considering its recreational nature and scale of the proposed development, significant visual impact from the proposal is not anticipated.

### **Building Matters**

#### 10.1.8 Comments of the Chief Building Surveyor/NT West, Buildings Department (CBS/NTW, BD):

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to comment on their suitability for the applied use.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise, they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) If the proposed use under application is subject to issue of a license, the applicant is reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (f) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (g) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

### **Fire Safety**

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

- (a) He has no objection in principle to the application subject to water supplies for firefighting and fire service installations

(FSIs) being provided to his satisfaction.

- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) The EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

### **Others**

10.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no comment on the application provided that no Food and Environmental Hygiene Department's (FEHD) facilities will be affected and such work and operation shall not cause any environmental nuisance and obstruction to the surrounding. Also, for any waste generated from the commercial/trading activities, the applicant should arrange its disposal properly at their own expenses.
- (b) Proper licence / permit issued by FEHD is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public. If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as BD, Fire Services Department, Planning Department, LandsD (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from FEHD for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence / Fresh Provision Shop Licence, if acceptable by FEHD, will be

referred to relevant government departments, such as Planning Department, LandsD (if necessary) for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements. This department will institute legal action against any person who operates a food business without a valid licence.

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

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

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

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

- (a) Project Manager/New Territories West, Civil Engineering and Development Department (PM/NTW, CEDD);
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (c) Chief Engineer/Sewerage Projects, Drainage Services Department (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services;
- (f) Commissioner of Police; and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 27.10.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 17.11.2017, one public comment from a member of the public was received (**Appendices V**) objecting to the application on the reasons of not in line with the planning intention of the "GB" zone and impact on the green belt.

## **12. Planning Considerations and Assessment**

12.1 The Site is mainly zoned "GB" (99%) with a very small portion zoned "O(1)" (1%) on the respective OZPs. The planning intention of "GB" zone is to define 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. However, limited development may be permitted if they are justified on strong planning grounds. The proposed recreational development including barbecue spot, refreshment kiosk, hobby farming, children playground and ancillary public

car park, is not in conflict with the planning intention of the “GB” zone. According to the applicant, only the refreshment kiosk (about 180m<sup>2</sup>) will be hard-paved and he will un-pave the remaining part of the Site.

- 12.2 The proposed recreational development, with a total floor area of 220 m<sup>2</sup> (i.e. about 1% of the Site) and only 2 1-storey (3m) structures, is considered not incompatible with the characters and land uses surrounding areas.
- 12.3 The 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 the design and layout of the proposed development is compatible with the surrounding areas, not overstraining the capacity of existing and planned infrastructure, and not adversely affect existing trees or natural landscape character.
- 12.4 There is no objection/adverse comments from Government departments concerned, including DEP, DAFC, CHE/NTW of HyD and AC for T/NT of TD. The development is not expected to generate significant traffic, ecological, environmental and drainage impacts on the surrounding areas. The technical requirements of concerned Government departments could be addressed by appropriate approval conditions (see paragraph 13.2 below). Whilst CTP/UD&L has reservation on the application from landscape planning perspective in respect of hard-paving of Site and undesirable precedent, it should be noted that the applicant will unpave the Site except the refreshment kiosk and there are other similar applications approved in the same “GB” zone. To address CTP/UD&L’s concern, an approval condition requiring removal of the hard paving of the Site is recommended.
- 12.5 The Committee has approved 2 previous applications (No. A/YL-LFS/56 in 2000 and 172 in 2008) for recreational development at the Site and 6 similar applications within the same “GB” zone (**Plan A-1**). Approval of the subject application is in line with the Committee’s previous decisions.
- 12.6 Whilst two previous planning approvals for similar recreational developments had been granted to the Site, the approved developments had not been implemented. As advised by DEP, the proposed development, if without proper mitigation measures in place, may create environmental nuisances to the residents in the surrounding areas. He also considers it necessary to ensure the implementation of the environmental mitigation measures proposed by the applicant and to monitor the effectiveness of such measures. As such, it is considered that a temporary approval for 3 years, instead of on a permanent basis as sought, should be granted.
- 12.7 There is 1 public comment objecting to the application as summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 above and having taken into

account the public comment mentioned in paragraph 11, the Planning Department has no objection to the proposed place of recreation, sports or culture and shop and services (including barbecue spot, refreshment kiosk, hobby farming and children playground and ancillary public car park) on a temporary basis 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 **6.4.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 pm and 11:00 am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no use of public announcement system, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle queuing back to or reverse onto/from the public road is allowed at any time during the planning approval period;
- (d) removal of the existing hard-paving on the Site, except the refreshment kiosk, before operation of the proposed use, as proposed by the applicant;
- (e) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board **by 6.10.2018**;
- (f) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board **by 6.10.2018**;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board **by 6.1.2019**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 **6.10.2018**;
- (j) in relation to (i) 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 **6.1.2019**;



- (k) the submission of a revised 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 **6.10.2018**;
- (l) in relation to (k) above, the implementation of the revised tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (m) if any of the above planning conditions (a), (b), (c) or (h) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (n) if the above planning condition (d) is not complied with before operation of the proposed use, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (o) if any of the above planning conditions (e), (f), (g), (i), (j), (k) or (l), is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (p) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

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

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

- (a) the proposed development is not in line with the planning intention of the "Green Belt" zone which is to define 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. There is no strong planning justification for a departure from such planning intention; and
- (b) there is insufficient information in the submission to demonstrate that the development would not have adverse landscape impact on the surrounding areas.

## **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 condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 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 received on 18.10.2017
<b>Appendix Ia</b>	Supplementary planning statement with site plan, location plan, layout plan, landscape & tree preservation plan, drainage plan and catchment plan
<b>Appendix Ib</b>	Further information on paving and landscape received on 13.11.2017
<b>Appendix Ic</b>	Further information on landscape received on 23.11.2017
<b>Appendix Id</b>	Further information on landscape received on 6.2.2018
<b>Appendix Ie</b>	Further information on unpaving the Site received on 16.3.2018
<b>Appendix If</b>	Further information on mitigation measures received on 20.3.2018
<b>Appendix Ig</b>	Further information on removing hard-paving received on 26.3.2018
<b>Appendix II</b>	Previous applications covering the application site
<b>Appendix III</b>	Similar applications within the same “GB” zone on the draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan
<b>Appendix IV</b>	Detailed comments of concerned Government departments
<b>Appendix V</b>	Public Comment
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	Drainage Plan
<b>Drawing A-5</b>	Catchment Plan
<b>Drawing A-6</b>	Comparison between the previously approved scheme under application No. A/YL-LFS/172 and the current scheme
<b>Plan A-1</b>	Location Plan with Similar and Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2018**