

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1037

<u>Applicant</u>	: Mr TSE Chung Fai represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 3037 RP (Part), 3039 and 3040 (Part) in D.D. 111 and Adjoining Government Land (GL), Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 6,593m ² (including GL of about 1,833m ² (27.8%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	: Temporary Place of Recreation, Sports or Culture and Barbecue Site with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary place of recreation, sports or culture and barbecue site with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “R(D)” on the OZP (**Plan A-1a**). According to the Notes of the OZP for “R(D)” zone, ‘Place of Recreation, Sports or Culture’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). Privately owned and commercially operated ‘Barbecue Site’ is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use of land not exceeding a period of three years also requires planning from the Board. The Site is currently partly hard-paved and partly covered by grass, and used for the applied uses with temporary structures erected without valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from Kam Tin Road via a local access. According to the applicant, the applied uses involve 14 structures for agricultural tools exhibition centre, agricultural demonstration centre, pet gardens, farming lecture room, refreshment kiosk, children learning centres, multi-function room for children

activities, rain shelters for activity plazas and children activity area, observatory viewing deck and ancillary storage and toilet, with a building height (BH) ranging from 2.7m to 6.5m (one to two storeys) and a total gross floor area of about 2,183m² (**Drawing A-1**). An area of 1,650m² (25% of the Site) will be reserved as a lawn area for picnic, outdoor recreational activities and barbecue area (with 25 barbecue pits). The applicant also applies for regularisation of the associated filling of land for an area of 4,773m² (72.4% of the Site) with concrete for a depth of not more than 0.2m, raising the site level to +37.6mPD for site formation and no further filling of land is required (**Drawing A-2**). An existing pond at the southeastern corner of the Site will be preserved for landscaping purpose and no filling of pond will be conducted. All the existing trees within the Site will also be preserved in-situ and maintained by the applicant. Boundary fences in solid metal with a height of 2.5m will be erected within the Site to avoid damages and disturbance to the adjacent woodlands within the “R(D)” and “Conservation Area” (“CA”) zones. Ten parking spaces for private cars for staff members and visitors, one loading/unloading (L/UL) space for light goods vehicles and two L/UL spaces for light buses will be provided within the Site. The operation hours will be between 9:00 a.m. and 6:00 p.m. daily including public holidays. The maximum number of visitors per day will be 80 persons, i.e. 40 in the morning and 40 in the afternoon, all by appointment only, and there will be about ten staff members working at the Site to support the operation. No public announcement system, portable loudspeakers or any form of audio amplification system will be used at the Site. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site, in part or in whole, is the subject of eight previous planning applications (details in paragraph 5 below). The last application (No. A/YL-PH/795) submitted by a different applicant for temporary place of recreation, sports or culture (hobby farm) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 21.12.2018, and the planning permission was subsequently revoked on 21.5.2021 due to non-compliance with approval condition on implementation of the fire service installations (FSIs) proposal. Compared with the previous application, the current application involves a smaller site area, addition of a barbecue site, changes in layout and major development parameters (including reduction in number of structures and total floor area and increase in BH), and regularisation of associated filling of land.
- 1.4 In support of the application, the applicant has submitted the following documents:
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|-----|--|------------------------------|
| (a) | Application Form with Supplementary Statement received on 11.11.2024 | (Appendices I and Ia) |
| (b) | Further Information (FI) received on 11.2.2025* | (Appendix Ib) |
| (c) | FI received on 14.4.2025* | (Appendix Ic) |
| (d) | FI received on 26.5.2025* | (Appendix Id) |
| (e) | FI received on 2.6.2025* | (Appendix Ie) |

* *accepted and exempted from publication and recounting requirements*

- 1.5 On 10.1.2025 and 11.4.2025, the Committee agreed to defer making a decision on the application for two months each as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form with Supplementary Statement and FIs at **Appendices I to Ie**, and can be summarised as follows:

- (a) The applied uses are temporary in nature and will not jeopardise the long-term planning intention of the “R(D)” zone, and are not incompatible with the surrounding land uses.
- (b) The hard-paved area is intended to facilitate a flat surface for site formation of structures, footpath, parking and L/UL spaces and circulation area. The extent of land filling has been kept to the minimum for meeting the operational need of the applied uses. No further filling of land will be carried out at the Site.
- (c) The last application (No. A/YL-PH/795) for place of recreation, sports or culture (hobby farm) submitted by a different applicant was approved in 2018. Therefore, the approval of the current application is in line with the Committee’s previous decision.
- (d) Due to the decrease of the number of visitors, there was insufficient fund to implement the accepted FSIs proposal under the last application (No. A/YL-PH/795) resulting in the revocation of the planning permission. To meet the operational need and to increase the revenue, the current application involves changes in the layout and operation mode, and provision of more variety of activities.
- (e) The applicant is intended to provide a destination with the provision of agricultural activities and educational programs to promote animal husbandry, sustainable farming and wilderness adventure. The proposed development will be divided into three parts, i.e. Animal Interaction Zone, Children’s Learning Centre and Barbecue Site, and provide a variety of activities and experiences to the visitors of all ages. The applicant will strictly follow the proposed scheme as submitted upon approval of the planning application.
- (f) The applied uses will not create significant nuisance to the surrounding areas. FSIs proposal and drainage proposal with photo record of the implemented drainage facilities have been submitted in support of the current application. Septic tank and soakaway system are proposed for sewage treatment. The applicant will also strictly follow the relevant guidelines and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (CoP) to minimise potential environmental nuisance and the “Professional Persons Environmental Consultative Committee Practice Notes” for sewage treatment.

- (g) The applicant will apply for Short Term Waiver (STW) and Short Term Tenancy (STT) to rectify the lease breaches and occupation of GL upon planning approval of the current application. The unauthorized structures or unlawful occupation of GL not covered by the current application will be demolished or ceased as well.

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

The applicant is not the “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements as set out at TPB PG-No. 31B are not applicable.

4. **Background**

The Site is subject to planning enforcement action against unauthorized development (UD) involving recreation use, use for place for parking of vehicles, use for shop and services and storage use (No. E/YL-PH/927) (**Plan A-2**). An Enforcement Notice was issued on 16.8.2024 requiring discontinuation of the UD by 16.11.2024. Site inspections on 20.11.2024 and 3.1.2025 revealed that the UD still continued upon expiry of the Enforcement Notice, prosecution action is being considered.

5. **Previous Applications**

- 5.1 The Site, in part or in whole, is the subject of eight previous applications for various place of recreation, sports and culture uses. Among the eight applications, seven were approved with conditions while one was rejected by the Committee. Details of these previous applications are summarised at **Appendix II** and the locations are shown on **Plan A-1b**.

Approved Applications

- 5.2 Seven applications, including five for temporary horse riding school with ancillary barbecue area and field study centre (No. A/YL-PH/301, 418, 527, 592 and 615, including one renewal of temporary approval granted) and two for temporary place of recreation, sports or culture (hobby farm) (No. A/YL-PH/753 and 795) were approved with conditions by the Committee between October 1999 and December 2018, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the proposed/applied use(s) were not incompatible with the surrounding land uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permissions under applications No. A/YL-PH/592, 615, 753 and 795 were subsequently revoked between March 2010 and May 2021 due to non-compliance with approval conditions.

- 5.3 Compared with the last approved application (No. A/YL-PH/795), the current application submitted by a different applicant involves a smaller site area, changes in major development parameters and layout, and regularisation of associated filling of land as mentioned in paragraph 1.3 above.

Rejected Application

- 5.4 Application No. A/YL-PH/651 for temporary horse riding school with ancillary barbecue area and field study centre was rejected by the Committee on 2.8.2013 mainly on the grounds that the previous planning permissions granted to the same applicant under applications No. A/YL-PH/592 and 615 were revoked due to non-compliance with approval conditions; approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses which were also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control; and the applied use was considered not acceptable from fire safety point of view.

6. Similar Application

There is no similar application within the same “R(D)” zone in the vicinity of the Site in the past five years.

7. The Site and Its Surrounding Areas (Plans A-1a to A-4b)

- 7.1 The Site is:

- (a) currently partly hard-paved and partly covered by grass, and used for the applied uses with temporary structures erected without valid planning permission; and
- (b) accessible from Kam Tin Road via a local access.

- 7.2 The surrounding areas are rural in character comprising mainly woodlands and scattered graves at the hillsides within the same “R(D)” zone and adjacent “CA” zone, and brownfield operations including open storage/storage yards and a vehicle repair workshop to the west of the Site.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government department objects to the application:

Land Administration

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

- (a) objects to the application;
- (b) the Site comprises GL and Old Schedule Agricultural Lots 3037 RP, 3039 and 3040 all in D.D. 111 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government;

Unauthorized structure(s) and unlawful occupation of GL covered by the application

- (c) there are unauthorized structure(s) and uses on the said private lot(s) covered by the application which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation for the lease breaches as demanded by LandsD;
- (d) the GL covered by the application (about 1,833m² as mentioned in the application) has been unlawfully occupied without any permission. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). This office reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice;
- (e) if the planning application is approved, the lot owner(s) shall cease the occupation of GL and apply to this office for a STW and/or STT to permit the structure(s) erected within the said private lot(s) and the occupation of the GL. The application(s) for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be subject to such terms and conditions including the payment of waiver fee, rent and administrative fee as considered appropriate by LandsD. Besides, given the applied uses are temporary in nature, only erection of temporary structure(s) will be considered;

Unauthorized structure(s) and unlawful occupation of GL not covered by the application

- (f) there are unauthorized structure(s) on the said private lot(s) not covered by the application. The lot owner(s) should immediately regularise the lease breaches and this office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (g) the GL adjoining the said private lot(s) not covered by the application have been fenced off/illegally occupied with unauthorized structure(s) without permission. The GL being illegally occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). This office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and
- (h) the lot owner(s)/applicant shall either remove the unauthorized structure(s) not covered by the subject application immediately; or include the unauthorized structure(s) in the subject application for further consideration by the relevant government departments and, subject to the approval of the Board to the application which shall have reflected the rectification or amendment as aforesaid required, apply to this office for a STW to permit the structure(s) erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner(s)/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future.

10. Public Comments Received During Statutory Publication Period

On 11.11.2024, the application was published for public inspection. During the statutory public inspection period, two public comments from the Conservancy Association and an individual were received, both expressing concerns on the application that there is no strong justification for non-compliance with approval condition under the last application; the applied uses do not provide sufficient open space and will have conflict with the existing trees at the Site; and there is no sufficient information on the on-site sewage arrangement and the site management and operational plan (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary place of recreation, sports or culture and barbecue site with ancillary facilities for a period of three years and associated filling of land at the Site zoned “R(D)” (**Plan A-1a**). While the applied uses are not in line with the planning intention of the “R(D)” zone, there is currently no known proposal for long-term development within the “R(D)” zone at the Site and approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “R(D)” zone. Taking into account the planning assessments below, there is no objection to the applied uses on a temporary basis for a period of three years with associated filling of land.
- 11.2 Filling of land within the “R(D)” zone requires planning permission from the Board. In this regard, the Chief Engineer/Mainland North of Drainage Services Department, who also considers the submitted drainage proposal with photo record of the implemented drainage facilities acceptable, and the Director of Environmental Protection have no objection to the application from public drainage and environmental planning perspectives respectively.
- 11.3 The applied uses are considered not incompatible with the surrounding areas which are rural in character comprising mainly hillsides with woodlands and scattered graves as well as open storage/storage yards and vehicle repair workshop. All the existing trees within the Site will be preserved in-situ and maintained by the applicant, and boundary fences in solid metal with a height of 2.5m will also be erected within the Site to avoid damages and disturbance to the adjacent woodlands. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that significant adverse landscape impact arising from the applied uses is not anticipated.
- 11.4 Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services, who also considers the submitted FSIs proposal acceptable, have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the CoP issued by the Environmental Protection Department to minimise the potential environmental nuisance on the surrounding land uses. Regarding DLO/YL, LandsD’s concerns on the unauthorized structures and uses within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 There are seven approved previous applications for various place of recreation, sports or culture uses at the Site as detailed in paragraph 5 above. Approving the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comments mentioned in paragraph 10 above, the departmental comments and planning assessments above are relevant. The concern on non-compliance with approval conditions of the last application is not relevant as the current application is submitted by a different applicant. Regarding the concerns on insufficient information on the sewage arrangement on site, septic

tank and soakaway system are proposed at the Site and the applicant will strictly follow the relevant statutory environmental requirements and practice notes so as to minimise potential sewerage impacts and environmental nuisance to the surrounding areas.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, PlanD has no objection to the application.
- 12.2 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 three years until 6.6.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) the implementation of the accepted 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 6.3.2026;
- (c) if the above planning condition (a) 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; and
- (d) if the above planning condition (b) 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.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied uses with associated filling of land are not in line with the planning intention of the "R(D)" zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendices I and Ia	Application Form with Supplementary Statement received on 11.11.2024
Appendix Ib	FI received on 11.2.2025
Appendix Ic	FI received on 14.4.2025
Appendix Id	FI received on 26.5.2025
Appendix Ie	FI received on 2.6.2025
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2025**