

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LK/133

<u>Applicant</u>	:	King Shing Ecological Farm Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 2468*, 2469, 2470, 2471, 2472, 2473, 2474, 2475 and 2476 in D.D. 39, Shek Chung Au, Sha Tau Kok, New Territories
<u>Site Area</u>	:	About 3,656 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Proposed 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 proposed temporary place of recreation, sports or culture (hobby farm) for a period of five years (**Plan A-1**). The Site falls within an area zoned “V” on the approved Luk Keng and Wo Hang OZP No. S/NE-LK/11. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use in “V” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the proposed temporary development involves 7 single-storey structures with building height of about 3.5m and a total floor area of about 914.5 m² for reception and changing room (Structure B1), plant nursery (Structure B2), an open shed structure for agricultural education centre (Structure B3), greenhouses (Structures B4 and B5), storage of farm tools (Structure B6) and portable toilet (Structure B7) (**Drawing A-1**). Majority of the Site (about 2,100 m², i.e. 57% of the Site) will be used for agricultural use, including farmland of about 1,846 m² (i.e. about 50%), greenhouses of about 120 m² (i.e. about 3%) and plant nursery of about 134 m² (i.e. about 4%) (**Drawings A-2 and A-3**). About 656 m² (about 18% of the Site) would be hard-paved for three proposed Structures B1, B3 and B6, and the remaining area would be soiled ground for circulation area and for

* As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), Lot 2468 in D.D. 39 has been subdivided into four portions, i.e. Lots 2468 S.A, 2468 S.B, 2468 S.C and 2468 RP in D.D. 39.

an artificial pond at the north-western corner of the Site (**Drawing A-3**). The Site is currently largely vacant with some structures on the Site.

- 1.3 The operation hours are from 9:00 a.m. to 6:00 p.m. daily, including public holidays. The estimated maximum number of visitors per day is about 40 and there will be eight staff working at the Site. The Site is accessible from Sha Tau Kok Road – Shek Chung Au via a local track (**Plan A-2**). There will be five private car parking spaces (2.5m × 5m each) and one loading/unloading space for light goods vehicle (3.5m × 7m) at the Site for the use of visitors and staff. Advanced booking is required for visitors to access the Site and to use the parking spaces, and the majority of staff and visitors will be required to use public transport services. No public announcement system will be used at the Site. Plans showing the proposed layout, area for agricultural use and paved ratio submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- | | | |
|-----|--|------------------------|
| (a) | Application Form with attachments received on 14.10.2020 | (Appendix I) |
| (b) | Supplementary Information received on 20.10.2020 | (Appendix Ia) |
| (c) | Letter received on 19.11.2020 requesting for deferment of consideration of the application | (Appendix Ib) |
| (d) | Further Information (FI) received on 4.2.2021 [^] | (Appendix Ic) |
| (e) | FI received on 26.2.2021 [^] | (Appendix Id) |
- [^] *accepted and exempted from publication*
- 1.5 At the request of the applicant (**Appendix Ib**), the Committee decided on 4.12.2020 to defer making a decision on the application for two months pending the preparation of FI to address the departmental comments. The applicant submitted FI on 4.2.2021 and 26.2.2021 (**Appendices Ic and Id**). The application is re-scheduled for consideration by the Committee on 26.3.2021.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FI at **Appendices Ia and Ic** respectively. They can be summarised as follows:

- (a) as demand for recreational farming is growing, the applicant seeks to operate a new hobby farm business to promote sustainable and organic farming in Hong Kong. The Site could be easily accessed from Sha Tau Kok Road – Shek Chung Au;
- (b) the proposed use is considered not incompatible with the surrounding land use and adverse impact should not be anticipated. The proposed development could optimise the development potential of precious land resource. The farming activity is also similar to the permitted agricultural use within the zone, therefore the proposed development would not frustrate the planning intention of the “V” zone;
- (c) barbecue/camping activities and overnight stay of visitors are prohibited at the Site at any time during the planning approval period;
- (d) excavation work is not required for erection of any structures or the artificial pond at the Site;

- (e) the land filling area is kept minimal for the operation of the proposed development. Site formation is required to provide ground reinforcement to stabilise the existing soiled ground and prevent erosion from surface runoff for three proposed structures;
- (f) the agricultural education centre (Structure B3) is used for briefing purpose and can accommodate 40 visitors each time. Basic knowledge of farming is taught by staff at the agricultural education centre, then visitors are brought to farmland area of the Site for farming experience;
- (g) the proposed development would not cause significant impact on environmental, traffic, visual, landscape and drainage aspects and relevant mitigation measures are proposed. The applicant will strictly follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance;
- (h) the applicant will make effort in complying with approval conditions / relevant Government regulations related to fire service, drainage, sewerage and landscape aspects upon planning approval; and
- (i) consent has been obtained from the respective lot owners, including the two Small House grant applicants within Lots 2468 S.A and 2468 S.B in D.D. 39, that no development will be implemented during the planning approval period.

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

The applicant is not a “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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Sha Tau Kok District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application for the Site.

5. Similar Application

There is no similar application within/partly within the “V” zone in the vicinity of the Site in the Luk Keng and Wo Hang area.

6. The Site and Its Surrounding Areas (Plans A-1 and A-2 and site photos on Plans A-3a to A-3b)

6.1 The Site is:

- (a) fenced off, mostly vacant and covered with soiled ground;

- (b) occupied by some structures at the central, eastern and south-western portions of the Site; and
- (c) accessible from Sha Tau Kok Road – Shek Chung Au via a local track (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by fallow agricultural land, storage use, scattered temporary structures and vacant land;
- (b) to the immediate east is vacant land, and to the further northeast are Law Uk and its Ancillary Block, both Grade 3 historic buildings;
- (c) to the immediate west are village houses and fallow agricultural land;
- (d) to the immediate north are vegetated areas within “Green Belt” zone with some graves and burial urns (**Plan A-2**); and
- (e) to the immediate south is a stream and across which are some storage, vacant land, workshop and Sha Tau Kok Road – Shek Chung Au.

7. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Other commercial, community and recreational uses may be permitted on application to the Board. Whilst filling of pond within the “V” zone requires planning permission from the Board, there is no restriction on filling of land within the zone.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the lots are Old Schedule lots held under the Block Government Lease (demised for agriculture use) without any guarantee of right of vehicular access. The applicant should make their own arrangement for acquiring access to the Site, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access to the Site for the proposed use;

- (b) there are existing structures erected on the Site without approval from her office. The aforesaid structures are not acceptable under the Leases concerned. Her office reserves the right to take necessary enforcement actions against the aforesaid structures;
- (c) according to the proposed development, a portable toilet would be erected within the Site. The applicant should note that any proposed toilet facility should meet the current health requirements;
- (d) should the application be approved, the owners of the lots concerned shall apply to her office for a Short Term Waiver (STW) covering the proposed structures. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by her office; and
- (e) there are nine outstanding Small House applications for Shek Chung Au Village under the processing by her office, among which two are within the Site (**Plan A-2**) which were made in July 2020. There is no record of the 10-year Small House demand forecast available from the relevant Indigenous Inhabitant Representative of the village concerned.

Agriculture and Nature Conservation

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

- (a) he has no adverse comment on the application from nature conservation point of view. Herbaceous plants and trees of common species are found within the Site; and
- (b) as the Site falls within “V” zone, he has no comment on the application from agricultural point of view.

Traffic

8.1.3 Comments of the Commissioner for Transport (C for T):

- (a) having reviewed the FI as submitted by the applicant (**Appendix Ic**), he has no further comment on the application as the traffic impact induced by the proposed development is tolerable from traffic engineering point of view;
- (b) should the application be approved, an approval condition on the implementation of traffic management measures, i.e. deployment of staff at the ingress/egress to direct vehicles and provision of signs to alert pedestrians and deter illegal parking, as proposed by the applicant is recommended; and
- (c) the vehicular access between the Site and Sha Tau Kok Road – Shek Chung Au is not managed by the Transport Department. The applicant should seek comment from the responsible party.

Environment

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

- (a) noting that the applicant would minimise noise from the proposed use, such as prohibiting the use of public announcement system portable loudspeakers or any form of audio amplification system, she has no objection to the application from environmental planning perspective;
- (b) adequate supporting infrastructure/facilities should be provided for proper collection, treatment and disposal of waste / wastewater generated from the proposed use. 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 ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”; and
- (c) the applicant is also advised to follow the environmental mitigation measures as set out in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP and all pollution control ordinances, in particular the Water Pollution Control Ordinance, since a stream is located at the south of the Site (**Plan A-2**).

Landscape

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

- (a) she has no in-principle objection to the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising vegetated areas, abandoned agricultural land, village houses, temporary structures. The proposed development is considered not entirely incompatible with the landscape character of the surrounding;
- (c) there is no valuable landscape resource observed within the Site. Hence, significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (d) since there is no major public frontage along the site boundary, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection to the application from public drainage viewpoint;

- (b) should the application be approved, an approval condition on the submission and implementation of drainage proposal is recommended to ensure that the development will not cause adverse drainage impact to the adjacent area. In their submission, the applicant requires assessing and identifying the project's potential drainage impacts and demonstrate in their submission with the implementation of necessary mitigation measures, the project will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development; and
- (c) there is no public sewerage available near the Site. Detailed comments are appended in **Appendix III**.

Fire Safety

8.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service 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; and
 - (ii) the location of where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) 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.

Water Supply

8.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

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

Building Matters

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

- there is no record of approval by the Building Authority (BA) for the existing structures at the Site and submission of the proposed buildings/structures to the BA for approval. Detailed advisory comments are appended in **Appendix III**.

Archaeology and Built Heritage

8.1.10 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

- (a) the Site falls within the Sha Tau Kok Shek Kiu Tau Site of Archaeological Interest (**Plan A-2**). As it is confirmed in the FI (**Appendix Ic**) that no excavation is involved for erection of the proposed structures, and the artificial pond will be built at-grade in the Site, this office has no further comment on the application from archaeological conservation perspective; and
- (b) it is noted that Law Uk and its Ancillary Block, Shek Chung Au (both Grade 3 historic buildings) are situated some 50 metres away from the Site (**Plan A-2**). This office, therefore, has no adverse comment on the application from built heritage conservation perspective.

Electrical Safety

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

- he has no objection to the application. There are 11kV overhead electricity supply lines of CLP erecting within the Site (**Plan A-2**). Detailed advisory comments are appended in **Appendix III**.

District Officer's Comments

8.1.12 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The Chairman of Sha Tau Kok District Rural Committee has no comment on the application. The Resident Representative of Shek Chung Au objects to the application on the grounds that “destroy first, build later” was involved thereby affecting the surrounding environment. The North District Council member of the subject constituency supports the application in supporting development of local agriculture.

8.2 The following Government departments have no comment on / no objection to the application:

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) Commissioner of Police.

9. Public Comments Received During Statutory Publication Period (Appendix II)

On 23.10.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual objects to the application mainly on the grounds that the proposed development is not a genuine hobby farm and it is a brownfield operation instead.

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years at the Site zoned “V” on the OZP. The proposed hobby farm is not entirely in line with the planning intention of the “V” zone where land is primarily intended for development of Small Houses by indigenous villagers. While DLO/N, LandsD advises that there are two Small House grant applications being processed within the Site (**Plan A-2**), the applicant states that consent has been obtained from the respective lot owners that no Small House development will be commenced during the planning approval period. Moreover, based on the latest estimate by PlanD, sufficient land (about 0.88 ha or equivalent to 35 Small House sites excluding the Site) is available within the “V” zone to meet the 9 outstanding Small House applications in Shek Chung Au Village. In this regard, it is considered that approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “V” zone.
- 10.2 The proposed temporary hobby farm involves 7 single-storey structures (about 3.5m in height) with a total GFA of about 914.5 m². About 57% of the Site will be used for agricultural use, including farmland (about 50% of the Site), greenhouses (of about 3%) and plant nursery (of about 4%), except about 18% of the Site (i.e. 656 m²) would be hard-paved for three proposed structures and the remaining area will be maintained as soiled ground for circulation area and an artificial pond. The proposed temporary development is considered not entirely incompatible with the surrounding land uses which are mainly of rural landscape character comprising fallow agricultural land, open storage use, scattered temporary structures and vacant land (**Plan A-2**). Significant adverse impact on the existing landscape resources arising from the application is not anticipated. In this regard, CTP/UD&L of PlanD has no objection to the application from landscape planning point of view.
- 10.3 The Site is accessible from Sha Tau Kok Road – Shek Chung Au via a local track (**Plan A-2**). Having reviewed the FI submitted by the applicant (**Appendix Ic**), C for T considers that the traffic impact induced by the proposed development is tolerable from traffic engineering viewpoint subject to provision of traffic management measures as proposed by the applicant. DEP has no objection to the application and advises that the applicant should adopt the environmental mitigation measures and requirements as set out in

ProPECC PN 5/93, the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and all relevant pollution control ordinances. Other relevant Government departments consulted, including CE/MN of DSD, CE/C of WSD, D of FS, ES(A&M) of AMO and DEMS, have no objection to or no adverse comment on the application.

- 10.4 Regarding the local objection conveyed by DO(N), HAD in paragraph 8.1.12 above, the Government department’s comments and the planning assessment above are relevant. In respect of a public comment about the genuineness of the proposed development, it should be noted that the approval of the application, should the Committee decide so, is given to the hobby farm under application. It does not condone any other development/use not covered by the application.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 8.1.12 and 9 respectively, the Planning Department has no objection to the application.
- 11.2 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 26.3.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m. daily, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no loud speaker, public announcement system and whistle blowing, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 26.9.2021;
- (d) in relation to (c) above, the provision of drainage facilities 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 26.12.2021;
- (e) the submission of proposals for fire service installations and water supplies for firefighting 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 26.9.2021;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 26.12.2021;

- (g) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 26.12.2021;
- (h) if any of the above planning conditions (a) or (b) 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
- (i) if any of the above planning conditions (c), (d), (e), (f) or (g) 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 III**.

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

- the proposed development is not in line with the planning intention of the "Village Type Development" zone where land is primarily intended for development of Small Houses by indigenous villagers. There is no strong justification in the submission to justify a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form with attachments received on 14.10.2020
Appendix Ia	Supplementary Information received on 20.10.2020
Appendix Ib	Letter received on 19.11.2020 requesting for deferment of consideration of the application
Appendix Ic	FI received on 4.2.2021
Appendix Id	FI received on 26.2.2021
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Plan showing the Area for Agricultural Use
Drawing A-3	Paved Ratio Plan

Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3b	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**