

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/748

<u>Applicant</u>	:	Join Grand Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1813 S.A and 1829 S.B ss.3 (Part) in D.D. 76, Sha Tau Kok, New Territories
<u>Site Area</u>	:	About 2,097 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau & Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years and filling of land at the application site (the Site) for necessary site formation works (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau & Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone, and planning permission from the Town Planning Board (the Board) is required for both the proposed use and filling of land¹. The Site is currently vacant.
- 1.2 According to the applicant, about 68% (1,419 m²) of the Site at the central and southern part of the Site will be used as farm area, about 22% (462 m²) of the Site will be used as manoeuvring space for vehicles and circulation with grass-pavers/soiled ground (**Drawing A-2**). The remaining 10% of the Site will be covered by a single-storey temporary structure (building height of about 3.5 m) with a total floor area of about 216m² at the southwestern portion of the Site for reception, storage of farm tools, washroom (with portable toilet), and changing room (**Drawing A-1**). The site formation for the temporary structure involves filling of land (not more than a depth of 0.2 m) of about 216 m² with concrete. A total of five parking spaces for private cars (2.5 m x 5 m) for visitors and staff, and one loading/unloading space for light goods vehicle (3.5 m x 7 m) will be provided at the

¹ Except (i) laying of soil not exceeding 1.2 m in thickness for cultivation or (ii) construction of any agricultural structure with prior written approval issued by the Lands Department.

northern portion of the Site. The proposed ingress/egress will be via a local track leading to Sha Tau Kok Road – Ma Mei Ha from the north (**Plan A-2**). The operation hours of the proposed hobby farm are from 9:00 a.m. to 6:00 p.m. daily including public holidays. The estimated maximum number of visitors and staff on the Site will be about 20 and 5 respectively. No public announcement system and loud speaker would be used. The site layout plan and paved ratio plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form with attachment received on 26.4.2021 (Appendix I)
 - (b) Supplementary Information (SI) received on 28.4.2021 (Appendix Ia)
 - (c) Further Information (FI) received on 2.6.2021^ (Appendix Ib)
 - (d) FI received on 15.6.2021^ (Appendix Ic)
- ^accepted but exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the Application Form, SI and FI at **Appendices I, Ia, Ib** and **Ic** respectively. They can be summarised as follows:

- (a) the applicant seeks to operate a new hobby farm business to promote sustainable and organic farming in New Territories. Pesticides will not be used to promote organic farming;
- (b) the farming activity is similar to the permitted agricultural use under the “AGR” zone. The proposal is a temporary use and will not jeopardise the long-term planning intention of the “AGR” zone;
- (c) the Site will be reinstated to an amenity area after the planning approval period;
- (d) an ingress/egress of about 7.3m wide will be provided at the northern part of the Site (**Drawing A-1**). No medium and heavy goods vehicles, including container tractors/trailers are allowed to enter the Site. Sufficient manoeuvring space will be provided to ensure no vehicle is required to reverse back to the public road; and
- (e) the proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will provide adequate mitigation measures through the submission of drainage, landscape and fire service installations proposals should the application be approved by the Board.

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

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending registered mail to the Ta Kwu Ling District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Applications

- 4.1 The Site was involved in two previous applications for uses different from the current application. Applications No. A/NE-LYT/25 and 90 for temporary open storage use for scrap metal and/or construction materials were rejected mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the proposal was not compatible with the surrounding land uses which were largely rural in character; the proposed provision of on-site parking facilities and vehicle manoeuvring spaces were inadequate; and no detailed drainage proposal was included in the submission.
- 4.2 Details of the previous applications are at **Appendix II** and their locations are shown on **Plan A-1**.

5. Similar Application

There is no similar application for temporary place of recreation, sports or culture (hobby farm) within the same “AGR” zone on the OZP.

6. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on **Plan A-3 and site photos on **Plans A-4a to A-4b**)**

- 6.1 The Site is:
- (a) vacant, fenced off and covered by some vegetation; and
 - (b) accessible from Sha Tau Kok Road – Ma Mei Ha via a local track.
- 6.2 The surrounding areas have the following characteristics:
- (a) to the immediate south is open storage of construction materials;
 - (b) to the further south and southwest is intermixed with village houses, temporary domestic structures, active/fallow agricultural land, restaurant, shops and storage;
 - (c) to the immediate east is a temporary golf-training centre under application No. A/NE-LYT/739, while the southeast are active/fallow agricultural land and plant nursery; and
 - (d) to the northwest across the local track is fallow agricultural land and a warehouse; and to the northeast across Sha Tau Kok Road is a mix of active/fallow agricultural land, vacant land, parking of vehicles and village houses.

7. Planning Intention

The planning intention of the “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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 under application are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the lots, and there is no guarantee that any adjoining Government Land (GL) will be allowed for vehicular access to the Site for the proposed use;
- (b) it is noted that land filling works would be performed on the Site. The applicant should make precautionary measures to restrict the scale of land filling activity so as to ensure no private lot(s)/GL adjacent to the Site would be disturbed (**Plan A-2**). Besides, the applicant should also comply with all the land filling requirements imposed by relevant Government department(s), if any;
- (c) it is noted that the proposed structure would be built for washroom use. The applicant should note that any proposed washroom facility should meet the current health requirements; and
- (d) if the application is approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area and the structure concerned. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Agriculture

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

- the Site possesses potential for agricultural rehabilitation. He has no strong view against the proposed use and land filling from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the application site will be reinstated upon the expiry of the planning permission.

Traffic

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

- having reviewed further information submitted by the applicant (**Appendix Ib**) in demonstrating the satisfactory manoeuvring of vehicles within the

Site, the provision of traffic signs near the entrance of the Site, and advanced booking required for visitors using the parking spaces at the Site, she has no in-principle objection to the application from the traffic engineering point of view.

8.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no adverse comment on the application; and
- (b) the applicant should provide adequate drainage system to prevent surface water running from the Site onto Sha Tau Kok Road if the application is approved.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) the Site is in an area where public sewerage connection is available; and
- (c) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area. In their submission, the applicant is required to assess and identify the potential drainage impact of the proposed development and demonstrate the implementation of necessary mitigation measures in that the proposed development will not cause unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the Site.

Environment

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

- (a) she has no objection to the application;
- (b) adequate supporting infrastructure/facilities should be provided for proper collection, treatment and disposal for waste/wastewater generated from the proposed development. If septic tank and soakaway system will be used, its design and construction shall follow the requirements of Environmental Protection Department's Practice Note for Professional person (ProPECC) PN 5/93 "Drainage Plan subject to comment by the Environmental Protection Department" for the temporary use;
- (c) considering the need to fill the land, the applicant is advised to follow mitigation measures stated in ProPECC PN 1/94 "Construction Site Drainage" during construction phase; and
- (d) the applicant should also 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" (CoP) to minimize any potential environmental nuisance.

Landscape

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

- (a) she has no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of rural inland plains landscape character surrounded by farmland, temporary structures, open storage, scattered tree groups and village houses. The proposed development is considered not incompatible with the surrounding environment;
- (c) according to the site inspection in 2021, it was found that the Site has been fenced off and no existing trees was found within the Site. Significant adverse landscape impact arising from the proposed development is not anticipated; and
- (d) in view that there is existing vegetation buffer to the northwest outside the Site abutting Sha Tau Kok Road – Ma Mei Ha Section, should the application be approved, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Fire Safety

8.1.8 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 the satisfaction of his department; and
- (b) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. His detailed comments are appended at **Appendix IV**.

Building Matters

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

- for any new proposed building, the applicant is advised to note his advisory comments under the Buildings Ordinance appended at **Appendix IV**.

District Officer's Comments

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

- he has consulted the locals regarding the application. The First Chairman of Fanling District Rural Committee and the Resident Representative of Leng Tsui object to the proposal on the grounds that the Site is close to residential area and the proposed development would cause noise, sewage and environmental hygiene impacts on the surrounding area. The Indigenous Inhabitant Representative of Leng Tsui and the North District Council member of subject constituency did not reply.

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 (PM(N), CEDD);
- (b) Commissioner of Police (C of P);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (d) Director of Leisure and Cultural Services (DLCS).

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

On 4.5.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two comments from the First Vice-Chairman of Fanling District Rural Committee and local villagers from Ma Mei Ha Village (attached with seven signatures) object to the application mainly on the grounds that the Site is close to residential area and the proposed development would cause noise, sewage and environmental hygiene impacts to the surrounding area. The remaining comment from an individual expresses filling of land should be strictly confined to the proposed area.

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary hobby farm for a period of 5 years in the “AGR” zone on the OZP. The applicant also seeks planning permission for partial filling of land (about 216 m² or 10% of the site area) for the single-storey temporary structure at the Site. According to the applicant, about 68% of the Site (1,419 m²) will be used for farming or cultivation. The proposed development is considered not in conflict with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC has no strong view against the proposed development from agricultural point of view. The approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of “AGR” zone.
- 10.2 The Site is situated in an area of rural inland plains landscape character surrounded by active/fallow agricultural land, temporary structures, open storage, scattered tree groups and village houses (**Plan A-2**). The proposed temporary development is not entirely incompatible with the surrounding environment. Since significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection to the application from landscape planning perspective.
- 10.3 The Site is accessible from Sha Tau Kok Road – Ma Mei Ha via a local track. Having reviewed the FI submission, C for T has no in-principle objection to the proposed development. DEP has no objection to the application from environmental planning perspective subject to the approval condition of prohibiting any form of audio amplification system. Should the application be approved, the applicant is reminded to strictly observe all relevant pollution control/environmental protection ordinances; EPD’s latest CoP, ProPECC PN 5/93 and ProPECC PN 1/94, etc. Other Government departments consulted, including CHE/NTE of HyD, CE/MN of DSD, and D of FS have no adverse comment on or no objection to the application.

- 10.4 The Site was involved in two previous applications (No. A/NE-LYT/25 and 90) for temporary open storage, which were rejected in 1995 and 1996 respectively. There is no similar application for temporary place of recreation, sports or culture (hobby farm) within the “AGR” zone on the OZP.
- 10.5 Regarding the local objections conveyed by DO(N), HAD and three adverse public comments as detailed in paragraphs 8.1.10 and 9 above respectively, the Government departments’ comments and planning assessments above are relevant.

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 8.1.10 and 9 above 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 25.6.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) the submission of drainage proposal, as proposed by the applicant, 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 25.12.2021;
- (c) in relation to (b) 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 25.3.2022;
- (d) the submission of proposals for fire service installations and water supplies for fire-fighting, as proposed by the applicant, 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 25.12.2021;
- (e) in relation to (d) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 25.3.2022;
- (f) if 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;
- (g) if any of the above planning conditions (b), (c), (d) or (e) 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

- (h) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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 "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such 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 26.4.2021
Appendix Ia	Supplementary Information received on 28.4.2021
Appendix Ib	Further Information received on 2.6.2021
Appendix Ic	Further Information received on 15.6.2021
Appendix II	Previous Applications
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Paved Ratio Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos