

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/21

<u>Applicant</u>	: Golden Wealth Tech Limited represented by Sun Cheong Management Consultant Limited
<u>Site</u>	: Lot 140 (Part) in D.D. 86, San Uk Ling, Man Kam To, New Territories
<u>Site Area</u>	: 643m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4
<u>Zoning</u>	: “Green Belt” (“GB”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years. The Site falls within an area zoned “GB” on the approved Man Kam To OZP No. S/NE-MKT/4 (**Plan A-1**). According to the Notes of the OZP for “GB” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently covered with grass/trees.
- 1.2 The proposed development comprises five farming areas, with a total area not exceeding 360m² (about 56% of the Site), for growing organic vegetables. One single-storey temporary structure with a height not exceeding 3.5m and a gross floor area not exceeding 71m² is proposed for storage of agricultural tools. There will be an extension (about 79m² floor area) of the temporary structure for activity shelter use with a total floor area of about 150m² (about 23% of the Site). The Site is accessible from Lin Ma Hang Road via a local track (**Plan A-1**). No parking or loading/unloading space is provided. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 According to the applicant, the proposed hobby farm will be open to public with the operation hours between 9:00 a.m. to 11:00 p.m. daily (including public holidays). There is no information in the submission on the estimated number of visitors to be accommodated at the Site. No filling of land/pond and hard paving will be undertaken at the Site. No barbeque activity and use of public announcement systems will be allowed at the Site.

- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) and a Supplementary Information (SI) (**Appendix Ia**), which were received on 22.8.2022 and 27.8.2022 respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the SI at **Appendix Ia**, and are summarized as follows:

- (a) the proposal will provide a recreational outlet for visitors to experience and cultivate their interest in organic farming for growing vegetables. The nature and layout of the proposed development are compatible with the surrounding areas;
- (b) the proposal is temporary in nature and would not jeopardize the long-term planning intention of “GB” zone.;
- (c) no pesticide will be used at the Site;
- (d) no adverse traffic, environmental, drainage and visual impacts are anticipated; and
- (e) the applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning permission.

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

The applicant is the sole “current land owner” of the lot. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within the “GB” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) are relevant to this application. The relevant assessment criteria are at **Appendix II**.

5. Background

- 5.1 Part of the Site was subject to a previous enforcement case (No. E/NE-MKT/24) against an unauthorized development (UD) involving filling of land (**Plan A-2**). Enforcement Notice (EN) was issued on 6.12.2019 requiring discontinuance of the UD by 20.12.2019. Reinstatement Notice was issued on 24.12.2019 requiring the concerned owner to remove the leftovers, debris and fill materials and grass the Site. Since the requirements of the statutory notices were complied with, Compliance Notices (CNs) to EN and RN were issued on 23.9.2020 and 25.9.2020 respectively.

- 5.2 The Site is currently not the subject of any active enforcement case.

6. Previous Application

There is no previous application concerning the Site.

7. Similar Application

There is no similar application for temporary hobby farm use within the same “GB” zone in Man Kam To area over the past five years.

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

8.1 The Site is:

- (a) covered with grass/trees; and
- (b) accessible from Lin Ma Hang Road via a local track (**Plan A-1**).

8.2 The surrounding areas are predominantly rural in character comprising a domestic structure, a vacant structure, active/fallow agricultural land, tree clusters and a knoll designated as Permitted Burial Ground (**Plans A-2 and A-4a**).

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government 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 are provided at **Appendices III** and **IV** respectively.

10.2 The following government departments have the following comments on the application.

Traffic

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

- (a) does not support the application from traffic engineering perspective as the applicant fails to provide the following information/assessment:
 - (i) the applicant should advise the width of the vehicular access;
 - (ii) the applicant shall demonstrate that no parking space is needed for the proposed development;
 - (iii) the applicant shall advise the management/control measures to be implemented to ensure no queueing of vehicles outside the Site; and
- (b) the vehicular access should be no less than 7.3m wide.

10.2.2 Comments of the Commissioner for Police (C for P):

- (a) no objection to the application; and
- (b) the local track leading to the Site is a one-lane two-way road where cargo trucks constantly pass through with no pedestrian path (**Plan A-2**). Since visitors are encouraged to access the Site on foot, this poses risk on pedestrian safety. Hence transportation is suggested to be provided to the visitors.

Nature Conservation

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

- (a) no comment on the application from nature conservation point of view; and
- (b) the Site is vegetated and covered with common weeds. It is noted that the Site has been cleared and remain for similar condition since 2019. He trusts that the Board will consider if it is a case of ‘destroy first, build later’ which should not be encouraged.

Landscape

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

- (a) the Site is covered by self-seeded vegetation. Some trees of common species are observed along the southeastern and southern boundaries of the Site. According to the applicant, no land filling and hard paving will take place at the Site. As the existing trees are common species, significant adverse impact on existing landscape resource within the Site arising from the proposed use is not anticipated;
- (b) the Site is located in an area of rural plains landscape character comprising vegetated areas, tree clusters and temporary structures. There is concern that approval of the proposed development would alter the landscape character of the “GB” zone; and
- (c) should the application be approved, it is considered not necessary to impose a landscape condition as the Site is surrounded by existing vegetation buffer and the effect of additional landscaping on enhancing the quality of public realm is not apparent.

District Officer’s Comments

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

- (a) he has consulted the locals on the application;
- (b) the Resident Representative (RR) of Muk Wu supports the application;
- (c) the Indigenous Inhabitant Representative (IIR) of Muk Wu, the IIR and the RR of San Uk Ling and the Chairman of 打鼓嶺區沙嶺村居民福利會

object to the application mainly on grounds that the proposed development at the Site would affect the fung shui of Muk Wu Village and would generate adverse traffic impact; and

- (d) the RR of Nga Yiu, the incumbent North District Councilor of N16 Constituency and the Chairman of Fung Shui Area Committee have no comment on the application. Ta Kwu Ling District Rural Committee does not reply.

11. Public Comments Received During Statutory Publication Period

On 30.8.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix V**). While the NDC member indicates no comment on the application, the individual objects to the application mainly on the grounds that the proposed development is a “destroy first, develop later” case with previous enforcement action taken; and the proposed hobby farm should be located in nearby “Agriculture” zone with better public transport provision.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary hobby farm for a period of three years at the Site zoned “GB” on the OZP. 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. The proposed hobby farm is to provide a recreational outlet for visitors to experience organic farming. More than half of the Site (i.e. 56%, or not exceeding 360m² of the Site) is proposed for cultivation. According to the applicant, no land/pond filling will be carried out at the Site. In view of the above, the proposed development as a passive recreational use is considered not entirely in conflict with the planning intention of the “GB” zone.
- 12.2 The Site is located in an area of rural inland plains landscape character comprising temporary structures, vegetated areas, active/fallow agricultural land and tree clusters. The proposed hobby farm is considered not incompatible with the surrounding areas. According to TPB PG-No. 10, an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Besides, development in the “GB” zone should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding area. In this regard, CTP/UD&L of PlanD has concerns that approval of the proposed development would alter the landscape character of the “GB” zone. As such, the application does not comply with the TPB-PG No. 10.
- 12.3 C for T does not support the application as the applicant has not provided information on the relevant satisfactory management/ control measures and traffic arrangement. The applicant has failed to demonstrate in the submission that there is no adverse traffic impact arising from the proposed development. Also, C for P advises that since visitors are encouraged to access the Site on foot, this poses risk to the pedestrians. While DAFC has no comment on the application from nature conservation perspective, he advises that the Site has been cleared and a case of ‘destroy first, build later’ should not be encouraged. Other government departments consulted, including DEP and CE/MN of DSD, have no objection to or no comment on the application.

- 12.4 There is no previous application concerning the Site nor similar applications within the same “GB” zone for temporary hobby farm over the past five years.
- 12.5 Regarding the local views conveyed by DO(N), HAD and the adverse public comment in paragraphs 10.2.5 and 11 respectively, the relevant government departments’ comments and planning assessments above are relevant. For the local views conveyed by DO(N), HAD regarding the fung shui implications of the proposed development, it should be noted that fung shui is not a planning consideration of the Board.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local views conveyed by the DO(N), HAD and the public comment in paragraphs 10.2.5 and 11 respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the applicant fails to demonstrate in the submission that the proposed development would not affect the existing natural landscape; and
 - (b) the applicant fails to demonstrate in the submission that the proposed development would not generate adverse traffic and landscape impacts on the surrounding areas.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 14.10.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 11:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no barbeque activity and use of public announcement system and loudspeaker, as proposed by the applicant, is allowed on Site at any time 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 14.4.2023;
- (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 14.7.2023;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (f) the implementation of the accepted 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 14.7.2023;

- (g) the submission of proposals for traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 14.4.2023;
- (h) in relation to (g) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 14.7.2023;
- (i) if the above planning condition (a), (b) or (e) 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;
- (j) if any of the above planning condition (c), (d), (f), (g) or (h) 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
- (k) upon the 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 attached at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form received on 22.8.2022
Appendix Ia	SI received on 27.8.2022
Appendix II	Relevant Extracts of TPB PG-No. 10
Appendix III	Government Department's General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**