

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MTL/10

- Applicant** : Brother Inter Limited represented by Mr. PANG Hing Yeun
- Site** : Lots 309, 310 RP (Part), 311, 316 (Part), 322 (Part), 323 (Part), 324, 325 (Part), 330 RP (Part), 362 (Part), 363 (Part) in D.D. 89 and Adjoining Government Land, Lo Wu, New Territories
- Site Area** : About 9,991.9m² (including about 1,997m² of Government Land (GL))
- Land Status** : - Block Government Lease (demised for agricultural use) (about 80%)
- GL (about 20% of the Site)
- Plan** : Approved Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan (OZP) No. S/NE-MTL/3
- Zoning** : “Green Belt” (“GB”)
- Application** : 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, sport or culture (hobby farm) for a period of three years which falls within an area zoned “GB” on the OZP. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use in the “GB” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently covered with grass/trees and a pond is found at the southeastern part of the Site (Plan A-3).
- 1.2 The proposal involves seven 1-to 2-storey structures with a height ranging from 2.62m to 5.24m, and a total floor area of about 104.1m² for storage, office, guardhouse, lounge and shared restroom uses. Three planting areas for the growing of flowers, vegetables and fruits are proposed, and the pond at the southeastern part of the Site will be used for fish farming. Nevertheless, there is no information in the submission in relation to the proportion of farming/hobby farm area and its operation. A total of seven private car parking spaces and one light goods vehicle parking space will be provided within the Site. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 According to the applicant, the hobby farm is intended for reserved visitors only and a maximum of 50 visitors (weekday)/80 visitors (weekend) could be accommodated within the Site. The operation hours of the proposed development is between 8:30 a.m. to 7:00 p.m. daily. The Site is accessible via Fai King Road leading to Ho Sheung Heung Road (**Plans A-1 and A-2**).
- 1.4 The Site is the subject of a previous application submitted by the same applicant as the current application for a proposed temporary holiday camp, pets park and ancillary facilities for a period of three years with filling of pond and land (Application No. A/NE-MTL/8). The application was rejected by the Rural and New Town Planning Committee (the Committee) on 12.8.2022 (see details in paragraph 6).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 11.1.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 13.1.2023 (**Appendix Ia**)
 - (c) SI received on 17.1.2023 (**Appendix Ib**)

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**, as summarized below:

- (a) the proposed development consists of removable structures only;
- (b) sewage will be stored in a septic tank and collected by the contractor on a weekly basis. No adverse sewerage impact from the proposed development is anticipated;
- (c) no chemicals and pesticides would be used within the Site; and
- (d) adverse drainage, hygiene, environmental impacts are not anticipated.

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

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

3.2 For the GL portion of the Site, the TPB PG-No. 31A is not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Development within Green Belt Zone under Section 16 of the Town Planning Board Ordinance” (TPB PG-No. 10) is relevant to this application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

The Site is not subject to any active planning enforcement action.

6. **Previous Application**

The Site is the subject of a previous application (No. A/NE-MTL/8) submitted by the same applicant as the current application for a proposed temporary holiday camp, pets park and ancillary facilities for a period of three years with filling of pond and land, which was rejected by the Committee on 12.8.2022 mainly for reasons of not in line with the planning intention of the “GB” zone; not in compliance with the TPB PG-No. 10 in that the proposed development would affect the existing natural landscape and generate adverse environmental, traffic and nature conservation impacts to the surrounding areas. Details of the previous application are summarized at **Appendix III** and its location is shown on Plan A-1.

7. **Similar Application**

There is no similar application within the same “GB” zone in the Ma Tso Lung and Hoo Hok Wai area.

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

8.1 The Site is:

- (a) covered with wild grass and tree clusters, with a pond found at the southeastern part of the Site (**Plan A-3**). A small watercourse is located in the middle of the Site (**Plan A-2**); and
- (b) accessible via Fai King Road leading to Ho Sheung Heung Road (**Plan A-1**).

8.2 The surrounding areas are dominated by marshes, vegetated hillslopes, domestic structures and other temporary structures. The Ho Sheung Heung Egrettry and a large piece of marshland are located to the south and north of the Site respectively within an area zoned “Conservation Area” (“CA”). The open storage of construction materials and metal workshop to the immediate south of the Site are ‘existing use’ (**Plans A-2 and A-3**).

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 IV** and **V** 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) the applicant should provide the following information/ assessment for his consideration:
 - (i) to justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
 - (ii) to advise the width of the vehicular access;
 - (iii) to demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
 - (iv) to advise the management/control measures to be implemented to ensure no queueing of vehicles outside the Site;
 - (v) to advise if public transport could access the Site;
 - (vi) to advise the provision and management of pedestrian facilities to ensure pedestrian safety;
 - (vii) the existing Fai King Road/Ho Sheung Hung Road connecting the Site and Ho Sheung Heung Road (section beyond the Lo Wu Correctional Institution) (**Plans A-1** and **A-2**) is a substandard road with no footpath provision. Some sections of the road are only about 2.7m wide and the sightlines are inadequate. The additional traffic generated by the proposed development may cause adverse impact on this single track access, in particular it may pose safety hazard to the pedestrians. The applicant shall address the adverse traffic impact induced and advise improvement measures, if any, to ensure pedestrian safety;
- (b) the vehicular access should be no less than 7.3m; and
- (c) the existing Fai King Road/Ho Sheung Heung Road between the Site and Ho Sheung Heung Road (section beyond the Lo Wu Correctional Institution) (**Plans A-1** and **A-2**) is not under Transport Department's management. The applicant should check the land status of the access with the lands authority, and clarify its management and maintenance

responsibilities with the relevant lands and maintenance authorities accordingly.

Landscape

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

- (a) the Site is located in an area of rural inland plains landscape character comprising fish ponds in the east, densely vegetated hillslopes at Crest Hill in the west and temporary structures in the south (**Plans A-2 and A-3**). The proposed development is not incompatible with its surrounding environment; and
- (b) the Site is covered with wild grass, and consists of a large pond and small watercourse which is connected to the wetland within the “CA” zone in the east. Some existing trees of common/invasive species are observed within or along the periphery of the Site. A young *Aquilaria sinensis* (less than 3m high) is found outside the northern site boundary. The proposed planting area in the northeast may be in conflict with the existing small watercourse located in the middle of the Site (**Plan A-2**). Noting that information on the existing landscape resources within the Site (e.g. the existing small watercourse and trees), the proposed treatments and mitigation measures (if any) are not provided, potential impacts on existing landscape resources within the Site arising from the proposed use cannot be reasonably ascertained. Further information on the existing landscape resources, their proposed treatments and mitigation measures should be provided for consideration.

11. Public Comments Received During Statutory Publication Period

- 11.1 On 20.1.2023, the application was published for public inspection. During the statutory public inspection period, a total of 11 public comments were received from a member of North District Council, the Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society, the Conservancy Association and seven individuals (**Appendix VI**).
- 11.2 The North District Council member indicates no comment on the application. The Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society, the Conservancy Association and the seven individuals object to the application on grounds that the proposed development is not in line with the planning intention of the “GB” zone; adverse sewerage, ecology and environmental impacts on the surrounding areas and Ho Sheung Heung Egret are anticipated; the surrounding wetland would be adversely affected; it is a ‘destroy first, develop later’ case; the proposed development would pose road safety threats to the nearby residents and cyclists; and there is an ongoing legal dispute about adverse possession involving the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years at the Site zoned "GB" on the OZP. The planning intention of the "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 the zone. While three planting areas for growing vegetables/fruits/flowers are proposed at the Site, there is no information in the submission regarding the proportion of farming/hobby farm area and its operation, which are crucial for planning assessment purpose. The proposed development is considered not in line with the planning intention of the "GB" zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
- 12.2 The Site is situated in an area characterized by marshes, vegetated area, densely vegetated hillslopes and temporary structures. While CTP/UD&L of PlanD considers that the proposed development is not incompatible with the surrounding environment, she advises that information on the existing landscape resources within the Site and the proposed treatments and mitigation measures are not provided in the submission. As such, the potential impacts on the existing landscape resources arising from the proposed development cannot be reasonably ascertained. Since the proposed development may affect the existing natural landscape and there is no information in the submission to demonstrate that there is no adverse impact on the existing landscape, the application does not comply with TPB PG-No. 10.
- 12.3 The applicant fails to provide information/assessment in relation to parking provision, vehicular access, traffic management, etc, and hence the potential traffic impact arising from the proposed development could not be ascertained. Since there is no information in the submission to demonstrate that the proposal is feasible from traffic engineering perspective, the application does not comply with the assessment criteria of TPB PG-No. 10 as well. DEP has no objection to the application provided that the applicant would minimize any environmental nuisance to nearby sensitive receivers. Other relevant departments consulted, including D of FS, CE/MN of DSD, DAFC, etc. have no adverse comment on/no objection to the application.
- 12.4 Regarding the objecting public comments on the application as detailed in paragraph 11 above, government departments' comments and planning assessments above are relevant. With regard to the ongoing legal dispute (i.e. adverse possession) raised by an individual, it should be noted that land dispute matter is not a relevant planning consideration, and such matter should be resolved amongst relevant parties.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and taking into account the public comments in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "GB" zone which 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. There is no strong planning justification in the

submission for a departure from such planning intention, even on a temporary basis; and

- (b) the proposed development is not in line with the Town Planning Board Guidelines No. 10 for 'Application for Development within the "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 cause adverse traffic impact to the surrounding areas.

13.2 Alternatively, 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 3.3.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:30 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no use of loudspeaker, public announcement system, portable loudspeaker or any form of audio amplification system on the Site at any time during the planning approval period;
- (c) the submission of a Drainage Impact Assessment (DIA) including flood relief mitigation measures 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 3.9.2023;
- (d) in relation to (c) above, the implementation of the drainage proposal and other necessary flood relief mitigation measures identified in the DIA 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 3.12.2023;
- (e) in relation to (d) above, the implemented drainage facilities and flood mitigation measures at the Site should be maintained at all times during the planning approval period;
- (f) the submission of proposals for traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 3.9.2023;
- (g) in relation to (f) above, the implementation of proposals for traffic management measures within 9 months from the date of planning approval to the satisfaction of the Commissioner of Transport or of the Town Planning Board by 3.12.2023;
- (h) the submission of proposals for water supplies for fire-fighting and fire service installations 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 3.9.2023;
- (i) in relation to (h) above, the implementation of proposals for water supplies for fire-fighting and fire service installations 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 3.12.2023;

- (j) 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;
- (k) if any of the above planning condition (c), (d), (f), (g), (h) or (i) 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
- (l) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 11.1.2023
Appendix Ia	SI received on 13.1.2023
Appendix Ib	SI received on 17.1.2023
Appendix II	Relevant Extracts of TPB PG-No. 10
Appendix III	Previous Application
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	UAV Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**