

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/197

<u>Applicant</u>	: Hintak Construction Company Limited represented by FiBi International Project Consultancy Co. Limited
<u>Site</u>	Lot 244 in D.D. 37, Man Uk Pin, Sha Tau Kok, New Territories
<u>Site Area</u>	: About 1,024m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
<u>Zonings</u>	: “Agriculture” (“AGR”)
<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 for a proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years at the application site (the Site) which falls within an area zoned “AGR” on the on the approved Man Uk Pin OZP (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ use within the “AGR” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is mainly covered with vegetation while some temporary structures and miscellaneous items such as wooden boxes and water barriers are found within the Site (**Plans A-4a to A-4c**).
- 1.2 The Site is accessible via a local access road leading to Wo Keng Shan Road (**Plans A-1 and A-2**). As shown on the proposed layout plan (**Drawing A-2**), a total of about 450m² (about 44% of the site area) open-air farming area will be provided and two structures of about 4m high with floor area of about 116m² each (about 23% of the site area) will be erected at the central portion of the Site for greenhouse planting. Two other structures of about 3m high with floor area of about 16m², and 4m high with floor area of about 56m² will be erected in the southern portion of the Site for reception/staff restroom, washroom and storage respectively. The remaining area at the northern portion of the Site will be used for circulation space with three private car parking spaces (**Drawing A-2**). The total farming area is about 682m² (about 67% of the site area). No filling of land is involved according to the applicant.

- 1.3 According to the applicant, the operation hours will be from 9am to 6pm (from Monday to Saturday) and from 9am to 8pm (Sunday and Public Holidays). Visitors are required to make reservation for their visits, including carparking spaces by appointment. The maximum number of visitors will be about 80 daily, and is divided into four time slots with 10-20 visitors each time. There will be about 4 staff working at the Site.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 4.12.2023 (**Appendix I**)
 - (b) Further information (FI) received on 6.1.2024 and 9.1.2024* (**Appendix Ia**)
 - (c) Further information (FI) received on 17.1.2024 (**Appendix Ib**)
- (*accepted and 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 the Application Form and FIs at **Appendices I to Ib**, and as summarized below:

- (a) the proposed development will not frustrate the long-term planning intention of the “AGR” zone as it is only on a temporary basis;
- (b) the proposed development will not cause significant environmental and noise impact as there is no operation during sensitive hours;
- (c) the proposed development is small in scale and will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas;
- (d) drainage facilities will be provided on site (**Drawing A-3**) with a setback of about 3m and no surface runoff will be directly discharge to the stream in the north which is ecologically important. Facilities will be provided to filter the excess water before discharging. Fence is also erected to prevent visitors from approaching the natural stream; and
- (e) septic tank will be adopted for sewage disposal and cleaned by desludging vehicles regularly.

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

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

4. Background

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

5. Previous Application

The Site is not the subject of any previous applications.

6. Similar Application

6.1 There is one similar application (A/NE-MUP/183) for temporary place of recreation, sports or culture (hobby farm) and holiday camp (caravan) with ancillary facilities for a period of three years and associated filling of land in the same “AGR” zone in the adjoining west of the Site. The application was approved by the Committee in 10.11.2023 mainly on grounds that the applied use is generally in line with the planning intention of “AGR” zone and would unlikely cause significant adverse landscape, traffic, environmental and drainage impacts on the surrounding areas.

6.2 Details of the application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 and photos on Plans A-3, A-4a to A-4c)

7.1 The Site is:

- (a) fully fenced off and mostly covered with vegetation;
- (b) occupied by some temporary structures in the northern and eastern portions with some miscellaneous items such as wooden boxes and water barriers found within the Site; and
- (c) accessible via a local road leading to Wo Keng Shan Road.

7.2 The surrounding areas are predominantly rural landscape character comprising active/fallow farmlands, woodland, tree clusters, vegetated areas, temporary structures and village houses. A natural stream, which is the upstream of the Man Uk Pin Ecologically Important Stream (EIS), is running to the north and west of the Site.

8. Planning Intention

8.1 The planning intention of the “AGR” zone is 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.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraph 9.2 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 at **Appendices III and IV** respectively.
- 9.2 The following government departments have been consulted and their views on the application are summarised as follows:

Agriculture and Nature Conservation

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

- (a) Based on the FI submitted, he has no comment on the application;
- (b) the Site falls within the “AGR” zone and possesses potential for agricultural rehabilitation. He have no strong view against the application for the proposed use from agricultural perspective on the understanding that agricultural activities are involved in the proposed use. Nonetheless, the Site should be reinstated upon the expiry of the planning permission; and
- (c) a natural stream is located at the immediate north and west of the northern portion of the Site, which is the upstream of the Man Uk Pin EIS where native fish species were recorded.

Land Administration

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

- (a) the Site comprises Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via Government land (GL) is granted to the Site;
- (b) there are unauthorized structures on the private lot. The lot owner should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (c) the GL adjoining the said private lot has been illegally occupied with unauthorized structure 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 Cap. 28. Her office objects to the planning

application since there is illegal occupation of GL which regularization would not be considered according to the prevailing land policy. The lot owner should immediately cease the illegal occupation of GL. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (d) the lot owner shall cease the illegal occupation of the GL not covered by the subject planning application immediately and, subject to the approval of the Board to the planning application which shall have reflected the rectification as aforesaid required, apply to this office for a Short Term Waiver (STW) to permit the structures erected/to be erected on site. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it 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 her office. In addition, her office reserves the right to take enforcement action against the lot owner for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL;
- (e) unless and until the unlawful occupation of GL are duly rectified by the lot owner, her office object to the application; and
- (f) having reviewed the FI as submitted by the applicant (**Appendix Ia**), her comments remain valid.

9.3 The following government department has relayed the following local views on the application.

District Officer's Comments

9.3.1 Comments of the District Office (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Resident Representative (RR) of Man Uk Pin objects to the application with no reason provided; and
- (b) other consultees, including the Chairman of Sha Tau Kok District Rural Committee and the Indigenous Inhabitant Representative (IIR) of Man Uk Pin, have no comment. The Chairman of Lung Shan Area Committee has no comment with additional views that the applicant should pay attention to traffic issues and the proposed development should not cause adverse impact on the surrounding neighborhood and environment.

10. Public Comments Received During Statutory Publication Period (Appendix V)

- 10.1 On 12.12.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received. One individual indicates no comment on the application and one individual objects to the application on the grounds that the proposed development does not have previous planning approval and there is no information on the extent of land filling.

11. Planning Considerations and Assessments

- 11.1 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 “AGR”. According to the applicant’s submission, about 682m² (about 67%) of the Site will be used for open-air and greenhouse farming, and the remaining area of about 342m² (about 33%) will be used for other ancillary uses including reception, staff restroom, washroom, storage and circulation space with three vehicle parking spaces. No filling of land is involved in the application. The planning intention of the “AGR” zone 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. The proposed use is generally not in conflict with the planning intention of the “AGR” zone. DAFC has no strong view against the application from agricultural perspective. Taking into account this and the assessment below, approval of the application on a temporary basis for a period of three years could be tolerated.
- 11.2 The Site is located in an area of rural landscape character dominated by active/fallow farmlands, woodland, tree clusters and vegetated areas with temporary structures and village houses. The proposed use is considered compatible with the surrounding environment in the vicinity. Noting that the northern portion of the Site is in close proximity to the natural stream to the immediate north which is the upstream of the Man Uk Pin EIS (**Plan A-2**), the applicant has already fenced off the Site to avoid visitors from approaching the EIS. Furthermore, 3m set back of the drainage facilities and provision of filtering facilities and septic tank are proposed on site and no surface runoff will be directly discharged to the EIS. In this regard, DAFC has no adverse comment from nature conservation perspective. CTP/UD&L of Plan D has no objection as significant landscape impact arising from the proposed development is not anticipated. CE/MN of DSD and DEP have no objection to the application from drainage and environmental perspective.
- 11.3 C for T has no comment on the application from the traffic engineering perspective. DEP advises the applicant to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize the possible environmental impacts on the surrounding areas. Other relevant departments consulted, including D of FS, CE/C of WSD etc. have no adverse comment on/no objection to the application.

- 11.4 DLO/N of LandsD objects to the application for reasons of the presence of unauthorized structure within the Site and illegal occupation of GL, which are subject to lease enforcement actions. While land administration issues should be handled under separate regime, the lot owner should be advised to clear any unauthorized structures on Site and to cease illegal occupation of GL as demanded by LandsD. The applicant indicates that he would liaise with LandsD to rectify/regularize the matters and settle the land issues separately after the planning permission is granted (**Appendix Ia**).
- 11.5 There is one similar application (A/NE-MUP/183) for for temporary place of recreation, sports or culture (hobby farm) and holiday camp (caravan) with ancillary facilities for a period of three years and associated filling of land in the “AGR” zone in the vicinity of the Site. The application was approved by the Committee in 10.11.2023 mainly on grounds that the applied use is generally in line with the planning intention of “AGR” zone and would unlikely cause significant adverse landscape, traffic, environmental and drainage impacts on the surrounding areas. The grounds for approval of the similar application are largely applicable to the current application.
- 11.6 Regarding the public comments as mentioned in paragraph 10 and local views conveyed by DO(N) of HAD in paragraph 9.3.1 above, the government departments’ comments and planning assessments as stated above are relevant. It should be noted that no filling of land is involved in this application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comments in paragraph 10 above, the Planning Department 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 26.1.2027. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no public announcement system or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (b) 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 26.7.2024;
- (c) in relation to (c) above, the implementation of the drainage proposal 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 26.10.2024;

- (d) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal 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 26.7.2024;
- (f) in relation to (e) above, the implementation of the 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 26.10.2024;
- (g) the submission of 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 26.7.2024;
- (h) in relation to (g) above, the implementation of traffic management measures within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 26.10.2024;
- (i) in relation to (h) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (j) if the above planning condition (a), (d) or (i) 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 (b), (c), (e), (f), (g) and (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
- (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 attached 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 proposed use 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 justification in the submission for a departure from such 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, if any, 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

Appendix I	Application form and attachments received on 4.12.2023
Appendix Ia	Further information received on 6.1.2024 and 9.1.2024
Appendix Ib	Further information received on 17.1.2024
Appendix II	Similar s.16 application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Land status plan submitted by the applicant
Drawing A-2	Layout plan submitted by the applicant
Drawing A-3	Drainage plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**