

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TKL/644**

<b><u>Applicants</u></b>	: Beauty Power Development Ltd., Moreway Ltd. and Topfront Development Ltd.
<b><u>Site</u></b>	: Lots 605 (Part), 628 RP (Part), 629 RP (Part) and 632 in D.D. 77 and Lot 394 RP (Part) in D.D. 84, Ping Che, New Territories
<b><u>Site Area</u></b>	: About 5,089 m <sup>2</sup>
<b><u>Land Status</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<b><u>Zoning</u></b>	: "Agriculture" ("AGR")
<b><u>Application</u></b>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years (**Plan A-1**). The Site falls within an area zoned "AGR" on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, 'Place of Recreation, Sports or Culture (Hobby Farm)' under "AGR" zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicants, about 92% of the Site (i.e. about 4,673m<sup>2</sup>) will be used for cultivation. The proposed hobby farm comprises three single-storey temporary structures with a total gross floor area of 69.3m<sup>2</sup> for reception, storage of farm tools and portable toilet (**Drawing A-1**). It would provide recreational farming venue for the staff of the applicants' company and would not open to public. The proposed hobby farm would be divided into 5 areas with size ranging from about 200m<sup>2</sup> to 1,500m<sup>2</sup> to cater for the holiday farmers with different skills and needs of the individual participants (**Drawing A-1**). The ingress / egress point of the Site is located at the northern portion leading to Ping Che Road via a local track. No private car parking spaces will be provided and all visitors would be travelled by public transport. There is no fixed operation hour for the proposed development. The estimated number of visitors per farm lot per day are no more than 2 persons. Advanced booking to visit the hobby farm is required. The site

layout plan submitted by the applicants are at **Drawing A-1**. The Site is currently occupied by active and fallow farmland.

1.3 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 17.8.2020 (Appendix I)
  - (b) Supplementary Information received on 20.8.2020 (Appendix Ia)
  - (c) Letter dated 22.9.2020 requesting for 1<sup>st</sup> deferment of consideration of the application (Appendix Ib)
  - (d) Further Information received on 17.11.2020<sup>^</sup> (Appendix Ic)
  - (e) Letter dated 18.12.2020 requesting for 2<sup>nd</sup> deferment of consideration of the application (Appendix Id)
  - (f) Further Information received on 5.2.2021<sup>^</sup> (Appendix Ie)
- <sup>^</sup> accepted but exempted from publication

1.4 At the request of the applicants (**Appendices Ib and Id**), the Committee agreed on 9.10.2020 and 8.1.2021 to defer making a decision on the application for two months each pending the preparation of further information to address the departmental comments. The applicants submitted the further information (**Appendices Ic and Ie**) on 17.11.2020 and 5.2.2021 respectively and the application is re-scheduled for consideration by the Committee on 26.3.2021.

## 2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the supplementary planning statement and subsequent further information (**Appendices I, Ia, Ic and Ie**). They can be summarized as follows:

- (a) the proposed hobby farm would provide recreational farming venue for the staff of the applicants' companies and would not open to public;
- (b) the Site would still be used for agricultural activities and there is only changes in terms of the operation mode;
- (c) part of the Site is currently under active farming by a farmer and one-third of the Site is under-utilized (**Drawing A-1**). It is considered that the proposed temporary hobby farm could allow more people to practice farming on all farm lots and the Site can be fully utilized;
- (d) the proposed temporary structures would be painted in grass green or hay beige to minimise visual impact;
- (e) all users of the farm will take public transport from Ping Che Road and access the Site via an existing village track to the northwest of the Site;
- (f) the proposed temporary development is compatible with the surrounding land uses;
- (g) no use of public announcement system, portable loudspeaker or any form of audio amplification system is proposed;
- (h) the proposed temporary development will provide a portable toilet and the waste would be tanked away;

- (i) no fencing would be set up and the existing local tracks within the Site would be opened 24 hours to public;
- (j) the proposal will not involve site formation/ excavation or land filling within the Site and no construction works would be required; and
- (k) the applicants will comply with Water Pollution Control Ordinance for handling wastewater, adopt management practice to avoid refuse, wastewater and other pollution from entering the storm/ surface runoff and watercourse in the vicinity during farm operation.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Previous Application**

There is no previous application for the Site.

### 5. **Similar Applications**

- 5.1 There are two similar applications (Applications No. A/NE-TKL/598 and 607) for proposed temporary hobby farm for a period of three years within “AGR” zone in Ping Che and Ta Kwu Ling area. Both applications were approved by the Rural and New Town Planning Committee (the Committee) on 19.10.2018 and 17.5.2019 respectively mainly on the considerations that the proposed temporary development was generally in line with the planning intention of “AGR” zone; and the proposed use would not induce any significant adverse impact to the surrounding area. Applications No. A/NE-TKL/598 and 607 were revoked on 19.11.2020 and 17.11.2019 respectively due to non-compliance with time-limited approval conditions requiring submission/ implementation of traffic management measures, sewage and drainage proposals and fire service installations and water supplies for firefighting proposals.
- 5.2 Details of these similar applications are summarised at **Appendix II** and its locations are shown on **Plan A-1**.

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

#### 6.1 The Site is:

- (a) partly under active cultivation and partly fallow agricultural land; and
- (b) accessible from Ping Che Road via a local track (**Plans A-1 and A-2**).

#### 6.2 The surrounding areas have the following characteristics:

- (a) generally rural in character surrounded by active/fallow agricultural land;
- (b) to the east and north-east are the village proper of Ping che Yuen Ha village; and

- (c) to the south and west is Ping Yuen River, and across the river are active/fallow agricultural land.

## 7. **Planning Intention**

The planning intention of the “AGR” zone is to primarily 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 Office/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 applicants should make their own arrangement for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for the access of the proposed use;
- (b) the existing structure on the Site is not acceptable under the Leases concerned. This office reserves the right to take enforcement actions against the aforesaid structures;
- (c) the Site is surrounded by private lots of which the applicants may not be the owners. The applicants should seek consent to using the concerned lots for access purpose from the concerned owners;
- (d) according to the development proposal, one structure will be erected on the Site for toilet use. The applicants should note that any proposed septic tank and soakage put system should meet current health requirements; and
- (e) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) to cover all the actual occupation area. 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 her office.

## **Agriculture**

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

- (a) the Site falls entirely within the “AGR” zone. The agricultural activities are active in the vicinity, and agricultural infrastructures such as footpath and water source are also available. Majority of the Site is under active cultivation while the remaining portion is fallow agricultural land. The portion of fallow agricultural land within the Site possesses potential for agricultural rehabilitation. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc;
- (b) an agricultural production farm is operated by a farmer(s) whose main farming business is to take part in maintaining soil, growing crops, providing crops with necessary inputs such as fertilizers, pesticides as well as harvesting and marketing the crops for consumption by the general public. The main business of commercial hobby farms, however, is to provide recreational treats to farm visitors who buy the recreational services provided by the respective operator(s). Therefore, hobby farms are mainly used for recreational purposes instead of agricultural production;
- (c) the Site is part of the Tai Po Tin area which covers a broad area of active crop production farmland serving with agricultural infrastructures e.g. road access and water supply. Such area made contribution to the local crop production in Hong Kong. Hence, the replacement of such (i.e from active commercial crop fields to hobby farm) would to some extent diminish the crop production in local market. The cumulative effect of approving such similar application would encourage the expansion of recreational hobby farm in the area at the expense of existing commercial farming, which deviates from the objective of “AGR” zone to preserve good agricultural land for agricultural production;
- (d) the Government has adopted the New Agricultural Policy since 2016 encompassing more proactive support to protect, revitalise/rehabilitate, and optimise the use of good quality agricultural land for agricultural purposes. Majority of the Site is currently comprised of commercial crop production for local consumption which should be proactively preserved with best efforts. As the existing commercial crop field will be replaced by recreational hobby farms, DAFC does not support the proposed hobby farm use from agricultural point of view; and
- (e) Ping Yuen River is located adjacent to the southern boundary of the Site. The applicants should provide mitigation measures to avoid pollution to Ping Yuen River during construction and operation stage.

## **Traffic**

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

he considers that the application can be tolerated from traffic engineering point of view as the applicants have submitted further information (**Appendix Ic**) to demonstrate that the estimated maximum number of visitors per day is minimal

and all visitors will be travelled by public transport without generating additional vehicular trips.

### **Environment**

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

- (a) he has no objection to the application from environmental point of view; and
- (b) should the application be approved, the applicants are advised to comply with all environmental protection/ pollution control ordinances, including Water Pollution Control Ordinance, since Ping Yuen River is abutting the Site (**Plan A-2**). The applicants should also follow the relevant mitigation measures and requirements in “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” (COP) and ProPECC PN 5/93, and implement necessary mitigation measures to prevent any pollution to the nearby watercourses during operation.

### **Landscape**

#### **8.1.5 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 the landscape planning point of view;
- (b) the Site is situated in an area with landscape character of rural inland plains, comprising mostly agricultural land and clusters of tree group, village small houses, community facilities and structures for industrial use. According to the layout plan of the proposed development, there is little alteration of the existing site and proposed works, except the erection of two small temporary structures for toilet and reception/ storage use. The existing structure would be kept for storage use. As such, significant adverse impact arising from the temporary use under the application on existing landscape resources is not anticipated. Moreover, the proposed temporary hobby farm is considered not entirely in compatible with the landscape character of the surrounding agricultural land; and
- (c) should the application be approved by the Board, it is considered not necessary to impose a landscape condition as there is no major public frontage along the site boundary and existing tree groups are observed in the proximity of the Site.

### **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 and / or contaminated discharge to flow over to the adjacent river course; and
- (c) the Site is in an area where no public sewerage connection is available.

### **Building Matters**

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

- (a) he has no objection to the application;
- (b) there is no record of approval by the Building Authority for the existing buildings/structures at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (c) there is also no record of submission of the proposed building/ structure to BD for approval. His advisory comments are at **Appendix IV**.

### **Fire Safety**

#### 8.1.8 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection to the application subject to fire service installations and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. Detailed comments are appended in **Appendix IV**.

### **Water Supply**

#### 8.1.9 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 applicants may need to extend his inside services to the nearest suitable Government water mains for connection. The applicants 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 standard.

### **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 1<sup>st</sup> Vice-Chairman of Ta Kwu Ling District Rural Committee, the incumbent North District Council (NDC) member of subject constituency, the Resident Representative (RR) of Sheung Shan Kai Wat, the Indigenous Inhabitant Representative (IIR) of Tai Po Tin objected to the proposal on the grounds that the proposed development would cause traffic impact to the surrounding areas. The IIR and RR of Ping Che, the IIR of Ha Shan Kai Wat and the RR of Tai Po Tin had no comment on the application.

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); and
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

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

9.1 On 25.8.2020, the application was published for public inspection. During the statutory public inspection period, a total of 307 public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application while there are 306 objecting comments. The whole set of public comments have been deposited at the meeting for Members' inspection. Samples of the public comments objecting to the application are at **Appendix III** for Members' reference.

9.2 The 306 objecting comments were mainly from villagers of Ping Che Yuen Ha village, World Wide Fund for Nature Hong Kong, Kadoorie Farm and Botanic Garden Corporation, Green Sense and Designing Hong Kong Limited and some individuals. Among these objections, 259 are standardized comments with some commenters adding extra views on the submissions. Their views are summarised as follows:

- (a) Hong Kong doesn't need another hobby farm for commercial use, but should retain the existing organic farm instead. It is undesirable to phase out the existing organic farming within the Site producing good quality local organic vegetables for Hong Kong;
- (b) the application is not a genuine hobby farm development;
- (c) the applicants fail to demonstrate that the development would not generate adverse traffic, environmental and sewerage impacts on the surroundings areas and they have particular concern on the road safety in Ping Che Yuen Ha Village;
- (d) the proposed development would generate traffic impacts to the surrounding areas. In particular, the local villagers of Ping Che Yuen Ha village also concerned about the heavy traffics generated to the village and pedestrian safety issues;
- (e) the proposed development might cause pollution to Ping Yuen River which locates abut to the Site;



- (f) insufficient information has been provided in the application regarding the design and operation of the development;
- (g) the proposed development will force eviction of the existing tenant; and
- (h) although the proposed hobby farm is not in conflict with the planning intention of the “AGR” zone, the proposed development is not entirely compatible with the largely undisturbed rural surrounding area which is predominantly rural in character and dominated by agricultural land. Approval of the application would set an undesirable precedent for similar applications in the area.

## 10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary hobby farm for a period of 3 years at the Site zoned “AGR” on the OZP. According to the applicants, majority of the Site (92% of the Site) will be used for recreational farming venue for the staff of the applicants’ companies and would not open to public. As majority of the Site is currently under commercial crop production for local consumption which should be proactively preserved with best efforts, DAFC does not support the proposed hobby farm use from agricultural point of view. Moreover, DAFC considers that the remaining portion of the Site are fallow agricultural land which possesses potential for agricultural rehabilitation. The cumulative effect of approving such similar application would encourage the expansion of recreational hobby farm in the area at the expense of existing commercial farming, which deviates from the objective of “AGR” zone to preserve good agricultural land for agricultural production. The proposed hobby farm for recreational use replacing the existing active and good quality vegetable farms is generally 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.
- 10.2 The proposed temporary development is considered not entirely incompatible with the surrounding land uses which are mainly of rural landscape character comprising active and fallow agricultural land and clustered tree group (**Plan A-3**). In this regard, CTP/UD&L, PlanD has no objection to the application from landscape planning point of view.
- 10.3 C for T considers that the application can be tolerated from traffic engineering point of view as the applicants have submitted further information to demonstrate that the estimated maximum number of visitors per day is minimal and all visitors will travel by public transport without generating additional vehicular trips. DEP has no objection to the application and advised the applicants should adopt the environmental mitigation measures and requirements as set out in ProPECC PN5/93, the latest COP and all relevant environmental protection/ pollution control ordinances. Other relevant Government departments consulted, including CE/MN of DSD, CHE/NTE of HyD, D of FS and CE/C of WSD, have no adverse comment on or no objection to the application.
- 10.4 There are two similar applications (No. A/NE-TKL/598 and 607) for proposed temporary hobby farm for a period of three years. Both applications were approved by the Committee on 19.10.2018 and 17.5.2019 respectively mainly on the considerations that there are no adverse comments from AFCD and other concerned departments. The

planning circumstances of the current application are different from those approved applications.

- 10.5 Regarding the adverse public comments as detailed in paragraph 9 and the local objections conveyed by DO(N), HAD in paragraph 8.1.10 above mainly on the grounds of not in line with the planning intentions of “AGR”, adverse traffic impact and road safety, potential environmental pollution and nuisance to surrounding and approval of the application would result in the eviction of the farmers etc., the Government department’s comments and the planning assessment above are relevant.

## 11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and taking into account the local objections conveyed by DO(N), HAD and public comments in paragraphs 8.1.10 and 9 above respectively, the Planning Department does not support the application for the following reason:

- 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 justification in the submission for a departure from such planning intention, even on a temporary basis.

- 11.2 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 3 years until 26.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no use of public announcement system, portable loudspeaker or any form of audio amplification system, as proposed by the applicants, is allowed to be used on the Site 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 26.9.2021;
- (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 26.12.2021;
- (d) 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;
- (e) in relation to (d) 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;

- (f) if any of the above 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; and
- (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.

#### Advisory Clauses

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

### **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 12.3 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.

### **13. Attachments**

<b>Appendix I</b>	Application form with attachments received on 17.8.2020
<b>Appendix Ia</b>	Supplementary Information received on 20.8.2020
<b>Appendix Ib</b>	Letter dated 22.9.2020 requesting for 1 <sup>st</sup> deferment
<b>Appendix Ic</b>	Further Information received on 16.11.2020
<b>Appendix Id</b>	Letter dated 18.12.2020 requesting for 2 <sup>nd</sup> deferment
<b>Appendix Ie</b>	Further Information received on 5.2.2021
<b>Appendix II</b>	Similar s.16 Application for Temporary Hobby Farm within the "Agriculture" zone in the vicinity of the application site in the Ping Che & Ta Kwu Ling Area
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2021**