

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-WKS/20

- Applicant** : Total Honest International Limited represented by R-riches Property Consultants Limited
- Site** : Lots 1758 (Part), 1759 (Part), 1760 (Part) and 1763 (Part) in D.D. 78, Nga Yiu Ha, Ta Kwu Ling, New Territories
- Site Area** : About 3,581m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Wo Keng Shan Outline Zoning Plan (OZP) No. S/NE-WKS/10
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) with Ancillary Facilities for a Period of 5 Years and Filling of Land

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) with ancillary facilities for a period of 5 years and filling of land (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Hobby Farm)’ is a Column 2 use within the “AGR” zone requiring planning permission from the Board. Filling of land for the proposed use in the “AGR” zone also requires planning permission from the Board. The Site is currently covered with grass.
- 1.2 According to the applicant, about 58% of the Site (i.e. 2,083m²) will be used for cultivation/ farm area. There would be three single-storey structures of about 4m in height with a total floor area of about 324m² for agricultural activities room, reception, site office, washroom and changing room uses. Six parking spaces for private cars and one loading/unloading space for light goods vehicles are provided at the Site (**Drawing A-1**). The remaining area will be used as footpath and an at-grade artificial pond for landscape design purpose. About 19% of the Site (i.e. 676m²) will be filled with concrete of not more than 0.2m for site formation works, and for parking and circulation purposes (**Drawing A-2**).
- 1.3 The proposed development would only accept not more than 20 visitors per day. Visitors are required make appointment in advance and pay for the entrance fee to access the Site and use the parking space. Traffic mitigation measures including staff deployment at the ingress/egress of the Site to monitor the traffic condition and erection of traffic signs are proposed. 35 new trees would be planted along the site

boundary as landscape screening purpose. The Site will be reinstated for agricultural use upon the expiry of planning approval period. It is accessible from Heung Yuen Wai Highway via a local track (**Plan A-2**). The operation hours of the Site are between 9:00 a.m. and 6:00 p.m. daily, including public holidays. The proposed layout plan, paved area plan and landscape plan submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.

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

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|-----|---|----------------------|
| (a) | Application Form received on 27.10.2022 | (Appendix I) |
| (b) | Further Information (FI) received on 30.12.2022 | (Appendix Ia) |
| (c) | FI received on 3.2.2023 | (Appendix Ib) |

1.5 On 23.12.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and FI submission at **Appendices I and Ia**, and summarized as follows:

- (a) the proposed development would promote hobby organic farming and serve to meet the increasing demand for recreational organic farming due to travel restrictions imposed during the pandemic;
- (b) the proposed development is temporary in nature and would not frustrate the long-term planning intention of the "AGR" zone;
- (c) the proposed development is a passive recreational use, which is not incompatible with the adjacent land uses;
- (d) the proposed filling of land area is considered necessary and has been kept to minimal for the operation of the proposed development;
- (e) no adverse traffic impact arising from the proposed development is anticipated, with a maximum of 6 vehicular trips generated during peak hours. Sufficient space will be provided for vehicles to manoeuvre within the Site to ensure no queuing of vehicles outside the Site. No medium or heavy goods vehicles would be allowed to access the Site; and
- (f) the proposed development would not create adverse environmental, landscape and drainage impacts on the surrounding areas. A landscape proposal is also submitted in support of the application. Adequate mitigation measures, i.e. submission of drainage and fire service installation proposals; and compliance with the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP), would be provided to minimise any nuisance to the existing environment.

3. Compliance with the "Owner's Consent/Notification" Requirements

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 taking reasonable steps to give notification to the owner including posting site notices and sending notices to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is not the subject of any active planning enforcement case.

5. **Previous Application**

There is no previous application at the Site.

6. **Similar Application**

There is no similar application for temporary hobby farm use within the same "AGR" zone.

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

7.1 The Site is:

- (a) partly fenced off, covered with overgrown grass; and
- (b) accessible from Heung Yuen Wai Highway via a local track (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) generally rural landscape character comprising woodlands and vegetated areas (**Plan A-4a**);
- (b) to the north are some temporary domestic structures and a vegetated hillslope within the "AGR" and "Green Belt" ("GB") zones on the approved Ta Kwu Ling North OZP No. S/NE-TKLN/2;
- (c) to the east and south are vegetated hillslopes within the "GB" zone;
- (d) to the south is a natural streamcourse (**Plan A-2**); and
- (e) to the west are mainly fallow agricultural/vegetated land, further west is the village proper of Nga Yiu Ha.

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.

- 8.2 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage and environmental impacts on the adjacent areas.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices II** and **III** respectively.
- 9.2 The following government department has conveyed local views on the application.

District Officer’s Comments

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

- he has consulted the locals regarding the application. The Ta Kwu Ling District Rural Committee, and the Indigenous Inhabitant Representatives (IIRs) of Chuk Yuen and Ping Yeung object the application mainly on grounds that the proposed development would bring adverse environmental and traffic impact; and it is a ‘destroy first, build later’ development. The incumbent North District Councilor of N16 Constituency objects the application. The Chairman of Fung Shui Area Committee, the Resident Representative (RR) of Nga Yiu Ha, the IIR and the RR of Wo Keng Shan, the RR of Chuk Yuen and one IIR and one RR of Ping Yeung have no comment on the application.

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

The application and subsequent FI submitted by the applicant were published for public inspection on 4.11.2022 and 13.1.2023 respectively. During the statutory public inspection periods, a total of 12 public comments were received. Two comments each submitted by the Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two comments each submitted by the Conservancy Association, the Hong Kong Bird Watching Society, Kadoorie Farm and Botanic Garden Corporation and one individual, and one comment each submitted by the WWF HK and an individual, raise objection to the application on considerations that the proposed development is not in line with the planning intention of the “AGR” zone; cause adverse environmental impacts; set an undesirable precedent of the ‘destroy first, build later’ approach and similar applications; there is no information regarding vegetation clearance along the access road and the design of artificial pond; and excessive land filling area would cause significant adverse impact on the arability of the Site.

11. Planning Consideration and Assessments

- 11.1 The application is for a proposed temporary hobby farm with ancillary facilities for a period of 5 years and filling of land at the Site zoned “AGR” on the OZP. The proposed development is considered 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. On the understanding that agricultural activities are involved in the Site, DAFC has no strong view against the application from agricultural point of view. Filling of land within the "AGR zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no adverse comment from the drainage and environmental perspectives.

- 11.2 The Site is situated in an area of rural inland landscape character mainly comprising woodlands and vegetated areas. According to the FI submitted by the applicant, 35 new trees would be planted along the site boundary as landscape screening (**Drawing A-3**). Noting landscape treatments within the Site will be provided and significant adverse landscape impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective.
- 11.3 C for T considers that the traffic impact induced by the proposed development is tolerable from traffic engineering point of view subject to the implementation of traffic management measures. Other relevant government departments, including CE/MN of DSD, D of FS and DEP, have no adverse comment on or no objection to the application.
- 11.4 Regarding the local objection as conveyed by DO(N), HAD and the public comments as detailed in paragraphs 9.2.1 and 10 above respectively, government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the local views conveyed by DO(N), HAD in paragraphs 9.2 and the public comments mentioned 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 5 years until 17.2.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no public announcement system or any form of audio amplification system, as proposed by the applicant, 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 17.8.2023;
- (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 17.11.2023;

- (d) in relation to (c) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (e) 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 17.8.2023;
- (f) in relation to (e) 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 17.11.2023;
- (g) the implementation of traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 17.11.2023;
- (h) if any of the above planning conditions (a) or (d) 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;
- (i) if any of the above planning conditions (b), (c), (e), (f) or (g) 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
- (j) 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 IV**.

- 12.3 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. It is also intended 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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, 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 received on 27.10.2022
Appendix Ia	FI received on 30.12.2022
Appendix Ib	FI received on 3.2.2023
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Proposed layout plan
Drawing A-2	Proposed paved area
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
FEBURARY 2023**