

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/113

- Applicant** : Mr. Li Chin Lun represented by Metro Planning & Development Company Limited
- Site** : Lots 1386 and 1387 in D.D.375, So Kwun Wat, Tuen Mun, New Territories
- Site Area** : About 653.3 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/13
- Zonings** : “Green Belt” (“GB”) (about 95.4%); and
“Village Type Development” (“V”) (about 4.6%)
[Restricted to a maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years and associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years and associated excavation of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “GB” and “V” zones, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Furthermore, excavation of land within the “GB” zone requires planning permission from the Board. The Site is currently vacant, fenced-off and covered with sand and gravels (**Plan A-4**).
- 1.2 A small part in the southwestern portion of the Site involves one previous application (No. A/TM-SKW/76) for temporary open storage of construction materials with ancillary offices for a period of 1 year which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2012 (**Plan A-1**).
- 1.3 The Site is accessible from So Kwun Wat Tsuen Road via a local track (**Plans A-2 and A-3**). According to the applicant, majority of the Site will be used as farming

area (about 68.9% of the site), with the remaining area for 2 temporary single-storey structures (about 18.4%), a visitor private car parking space and circulation (**Drawing A-1**). No site paving and site formation is proposed. The proposed excavation of land (about 33 m² or 5% of the Site in area and 0.3m in depth) is intended to construct a surface U-channel for dissipation of stormwater. A removable wooden platform will be provided within the proposed structure for storing farm tools. The sand and gravels at the Site will be replaced with soil suitable for cultivation. The operation hours of the proposed development will be 9 a.m. to 7 p.m. daily (including public holidays). The proposed development will serve at most 4 persons per day with adoption of prior appointment system. No public announcement system will be used. The applicant undertakes that the proposed drainage facilities will be provided and maintained at its own expenses. The proposed layout plan, proposed vehicular access plan and proposed drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.4 The major development parameters of the proposed use are summarised as follows:

Site Area	About 653.3m ²
Farming Area	About 450m ²
Total Floor Area (Non-domestic)	About 120m ²
No. and Height of Structure	2 <ul style="list-style-type: none">• one for storage of farm tools, necessities and toilet (3m, 1 storey)• one for rain shelter (3m, 1 storey)
No. of parking space	1 (5m x 2.5m) (for private car)

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

- Application Form with attachments received on (**Appendix I**) 29.11.2021
- Supplementary Information received on 3.12.2021 and (**Appendix Ia**) 6.12.2021
- Further Information (FI) received on 4.1.2022 providing (**Appendix Ib**) responses to departmental comments
- FI received on 14.1.2022 providing a revised drainage (**Appendix Ic**) proposal and responses to departmental comments
- FI received on 22.2.2022 providing clarifications on the (**Appendix Id**) revised drainage proposal and farming area

[(c), (d) and (e) exempted from publication and recounting requirements]

1.6 On 28.1.2022, the Committee of the Board decided to defer making a decision on the application for two months as requested by the applicant. The application is scheduled for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I to Ic**. They can be summarised as follows:

- (a) The proposed development is a passive recreational outlets providing farming experience to its visitors, which is in line with the planning intention of the “GB” zone. Similar applications have been approved by the Board in “GB” zones in other OZPs and a recreation use has been approved within the same “GB” zone in 2009. Moreover, the idle site would be better utilized and managed in the form of commercial operation.
- (b) The proposed development is line with the Town Planning Board Guidelines for “Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) in that it is compatible with the surrounding environment which is mainly vacant land and the access and parking arrangement would not adversely affect any trees.
- (c) The proposed development will serve a maximum of 4 visitors a day and accommodate 1 private car parking space. Except the two structures and 1 parking space, the remaining land of the Site would be reserved for cultivation use. No site formation and paving of land would be carried out and a drainage proposal is submitted to support the application. Hence, the proposed development would pose minimal traffic, noise, environmental and drainage impacts to the surrounding areas.
- (d) The vegetation at the Site was cleared by the applicant intended originally for agricultural use which is a Column 1 use within the “GB” zone.

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 posting site notice and sending the notice to the Tuen Mun Rural Committee by registered post. 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 Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone;
- (b) 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. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;

- (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area; and
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

5. Background

The Site is not subject to active planning enforcement action. However, part of the Site was involved in previous enforcement cases (No. E/TM-SKW/44 and E/TM-SKW/76) for unauthorised development (UD) of storage of construction materials and converted containers and of storage use respectively. For case No. E/TM-SKW/44, Enforcement Notice (EN) was issued and Compliance Notice (CN) for the EN was issued on 23.4.2013 upon discontinuation of UD. For case No. E/TM-SKW/76, CNs for EN and Reinstatement Notice (RN) were issued on 10.11.2017 and 19.4.2018 upon discontinuation of UD and completion of reinstatement works.

6. Previous Application

The southwestern portion of the Site is the subject of a previous application (No. A/TM-SKW/76) for temporary open storage of construction materials with ancillary offices for a period of 1 year (**Plan A-1**) which was rejected by the Committee on 20.7.2012 mainly on the grounds that the applied use was not in line with the planning intentions of the “V” and “GB” zones; the proposed development did not comply with the then “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E) and TPB PG-No. 10; the proposed development was considered incompatible with the nearby rural setting; the applicant failed to demonstrate the applied use would not generate adverse environmental, drainage and landscape impacts; and setting of undesirable precedent.

7. Similar Application

There is one similar application (Application No. A/TM-SKW/62) for place of recreation use within the subject “GB” zone (**Plan A-1**). Application No. A/TM-SKW/62 for a temporary place of recreation (war game playground) was approved with conditions for a period of 3 years by the Committee on 19.6.2009 mainly on the considerations that the applied use which was based on a natural setting without substantial structures was not incompatible with the natural and rural character of the surroundings, was generally in line with the Board’s guideline for development within “GB” zone in that no significant adverse impact on the natural landscape and visual quality was anticipated, and had no significant adverse impact on the infrastructural provision. The planning permission was revoked on 19.5.2012 as the applicant failed to comply with the condition regarding the implementation of drainage proposal.

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

8.1 The Site is:

- (a) currently vacant and fenced-off;
- (b) covered with sand and gravels with sparse vegetation, and an existing tree in poor condition is within the eastern boundary of the Site; and
- (c) accessible via a local track from So Kwun Wat Tsuen Road.

8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural fringe in character with mainly agricultural land and residential structures intermixed with open storage/ storage yards, parking of vehicles, woodland and vacant land;
- (b) to the immediate north and east are open storage/ storage yards and agricultural land respectively; to the further north and east are woodlands and vacant land;
- (c) to the immediate south and west are residential dwellings and land used for vehicle parking and storage use; to the southwest are clusters of village houses of So Kwun Wat Tsuen; and
- (d) the open storage/ storage yards and parking of vehicles in the vicinity are suspected UD subject to enforcement action taken by the Planning Authority.

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 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots 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 permission has been given for the erection of the proposed structures within the Site.
- (b) The Site is accessible via an access which comprises a number of private lots from a carriageway branching off from So Kwun Wat Tsuen Road. This office is not responsible for the maintenance of the said access nor guarantee that right-of-way will be given to the Site.
- (c) Should planning approval be given to the subject planning application, the lot owners may apply to his office for Short Term Waiver to permit erection of the proposed structures on the Lots. However, there is no guarantee that the application will be approved. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of wavier fee, deposit and administration fee, etc.
- (d) His office reserves the right to take enforcement actions as considered appropriate against any unauthorised erection/extensions/alternations of the structures erected without prior approval given by his office or in case of any unauthorised occupation of Government land.

Traffic

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

- (a) He has no in-principle objection to the application from traffic engineering viewpoint.
- (b) The applicant is reminded that sufficient space within the Site should be provided for maneuvering of vehicles. In addition, no vehicle is allowed to queue back to or reverse onto/from public road.
- (c) The application site is connected to the public road network via a local access road and So Kwun Wat Tsuen Road, which both are not managed by his department. The land status, management and maintenance responsibilities of that local access road should be

clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

He has no comment on the application from highways maintenance point of view as the existing road adjacent to the Site is not maintained by his department.

Environment

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application from environmental planning perspective. An approval condition should be included to prohibit any form of audio amplification system on site.
- (b) The applicant should be reminded to comply with environmental protection/ pollution control ordinance, including but not limited to Water Pollution Control Ordinance and Noise Control Ordinance, and to follow all requirements and mitigation measures in his department's latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use" (Code of Practice).

Landscape

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

- (a) She has reservation on the application from landscape planning perspective.
- (b) According to the aerial photo of 2021 (**Plan A-3**), the Site is situated in an area of miscellaneous rural fringe landscape character predominated by villages, farmlands, woodlands and graveyards. The "GB" zone is primarily intended to promote the conservation of the natural environment with a general presumption against development within this zone.
- (c) It is noted that unauthorized vegetation clearance had been taken place within the Site prior to the application. No information in terms of landscape treatment proposal is provided for the application in the planning statement. Given that there is no similar application for hobby farm previously approved within the same "GB" zone, there is concern that approval of the planning application may encourage other similar applications in the "GB" zone. The cumulative impact of such approval would result in a general degradation of the landscape quality of the surrounding environment in the "GB" zone.

Nature Conservation and Agriculture

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

- (a) She has no strong view on the application from nature conservation perspective.
- (b) The Site appeared to have undergone site clearance recently and was filled with sand and gravels. The mixture of these fill materials deposited on the Site cannot be classified as soil suitable for crop cultivation. Regarding the applicant's response of replacing the Site with soil suitable for cultivation, she has no comment on it and reiterates that she has no strong view on the application.
- (c) She trusts that the Board would consider if approval of this application would set an undesirable precedent encouraging "destroy first, build later" activities.

Drainage

10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no comment on the revised drainage proposal from public drainage viewpoint.
- (b) The existing drainage system to which the proposed drainage connection is to be made is not maintained by his Department. Consent from the concerned departments/maintenance parties should be obtained for the proposed connections to the existing drainage system.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should note his detailed comments at **Appendix III**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix**

III.

Others

- 10.1.10 Comments of the Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(AM), AMO):

Having regard to the location, scope of the proposed works and according to the findings of previous archaeological work in the surrounding areas, the project proponent needs to notify her office two weeks prior to the commencement of the captioned works so as to facilitate their staff to conduct site inspection in the course of excavation works.

District Officer's Comments

- 10.1.11 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO/TM, HAD):

He has distributed consultation letters to the locals concerned and understands that they would provide their comments (if any) to the Board direct.

- 10.2 The following government departments have no comment on/objection to the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Periods

On 7.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 13 public comments were received from the Conservancy Association, the management office of the nearby residential development (Le Pont), an ex-District Council member and 10 individuals. The Conservancy Association (**Appendix II-1**) and an individual (**Appendix II-2**) objected to the application on the grounds that the proposed development is not in line with the planning intention of "GB" zone, it is a 'destroy first, build later' case and approval of the application would set an undesirable precedent. Two individuals (**Appendix II-3 and Appendix II-4**) also objected to the applications and opined that land should be used for other developments such as housing. Le Pont's management office and six individuals (**Appendices II-5 to II-11**) raised objection/concerns that the existing local facilities and infrastructure in the So Kwun Wat area are insufficient and the proposed development would further bring possible adverse traffic, drainage, environmental (noise and light pollution) and infrastructural impacts to the surrounding areas. Two other individuals (**Appendix II-12 and Appendix II-13**) suggested the Government to provide more supporting facilities such as public transport services and open space in the area.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years and associated excavation of land at the Site mainly zoned “GB” (95.4%) with a minor portion zoned “V” (4.6%) 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. While there is a general presumption against development within the “GB” zone, limited developments may be permitted if they are justified on strong planning grounds. According to the proposal, the development is intended to provide opportunities for the urban dwellers to experience farming interest. The majority of the Site will be used as farm area for hobby farming (nearly 70%) with the remaining area for 2 temporary single-storey structures, a visitor parking space and circulation. Given that the proposed hobby farm is to provide passive recreational outlets in the area, it is considered not entirely in conflict with the planning intention of the “GB” zone. DAFC also has no strong view on this application from nature conservation perspective. As such, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the area.
- 12.2 The Site is situated in an area of rural fringe landscape character predominated by villages, farmlands, woodlands, graveyards, vacant land mixed with temporary structures and storage yards (**Plan A-2**). The proposed development, comprising nearly 70% of the Site for cultivation, is considered not incompatible with the surrounding environment.
- 12.3 The proposed development is generally in line with TPB PG-No.10 in that passive recreational use which is compatible with the character of the surrounding area may be given sympathetic consideration. As mentioned in paragraph 12.1 above, more than half of the Site (nearly 70%) is proposed for hobby farming (cultivation) purpose and no paving and site formation will be carried out at the Site. Whilst CTP/UD&L of PlanD has reservation on the application from landscape planning perspective as there was vegetation clearance prior to the application, it is noted that the scale, intensity, design and layout of the proposal is compatible with the surrounding areas. The applicant also explained that the clearance of vegetation at the Site was intended originally for agricultural use which is a use always permitted within the “GB” zone. As such, the proposed use is generally in line with the TPB PG-No.10.
- 12.4 The associated excavation of land is not substantial (33m² or 5% in area and 0.3m in depth) which is for provision of the required drainage facilities for dissipation of stormwater. As such, the proposed development will unlikely cause any adverse drainage impact on the surrounding areas. CE/MN, DSD has no comment on the drainage proposal submitted by the applicant from public drainage viewpoint. Other relevant government departments including DEP, C for T and D of FS also have no objection to/ no adverse comment on the application from environmental, traffic and fire safety aspects. To minimize any potential environmental nuisances and to address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will be advised to follow the latest

Code of Practice to minimize any potential environmental impacts on the surrounding areas.

- 12.5 A minor portion of the Site is involved in a previous application for temporary open storage which was rejected by the Committee in 2012. Whilst there is no similar application for temporary hobby farm within “GB” zone in the So Kwun Wat area, there is a similar application for proposed place of recreation use within the subject “GB” zone approved by the Committee. Approval of the application is generally in line with the Committee’s previous decision as the current proposal is also considered generally in line with TPB PG-No. 10 and the concerned departments have no adverse comment on the application.
- 12.6 There are 13 public comments, of which 2 comments providing suggestions and 11 comments raising concerns on/ objecting to the application on grounds as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 3 years until **4.3.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no site formation, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no audio amplification system of any form, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (c) the implementation of the accepted 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 **4.12.2022**;
- (d) in relation to (c) above, the implemented drainage facilities on the Site 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 **4.9.2022**;
- (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 **4.12.2022**;

- (g) if any of the above planning conditions (a), (b) or (d) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning conditions (c), (e) or (f) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (i) 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 III**.

- 13.3 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 intentions of the "Green Belt" zone, which 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. There is no strong planning justification in the submission for a departure from the planning intention.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the planning permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 29.11.2021
Appendix Ia	Supplementary Information (SI) received on 3.12.2021 and 6.12.2021
Appendix Ib	FI received on 4.1.2022
Appendix Ic	FI received on 14.1.2022
Appendix Id	FI received on 22.2.2022
Appendix II-1 to II-13	Public Comments
Appendix III	Advisory Clauses

Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
March 2022