

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/121

- Applicant** : Mr. Li Wai Lun represented by Metro Planning & Development Company Limited
- Application Site** : Lots 1391 (Part), 1392 S.A (Part), 1392 S.B, 1392 S.C, 1392 RP (Part) and 1393 RP (Part) in D.D. 375 and Adjoining Government Land (GL), So Kwun Wat, Tuen Mun, New Territories
- Site Area** : About 494m² (including GL of about 5m² or 1%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/15 (currently in force)
- Draft So Kwun Wat OZP No. S/TM-SKW/14 (at the time of submission)
[The zoning and development restrictions of the application site remain unchanged on the current OZP]
- Zoning** : “Green Belt” (“GB”)
- 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 three 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” zone, ‘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 also requires planning permission from the Board. The Site is currently covered by vegetation with deposit of containers without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from So Kwun Wat Tsuen Road via a local track (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, about 61.7% of the Site (i.e. 305m²) will be used for cultivation, while three single-

storey structures (about 3.5m in height with a total floor area of about 54m²) are proposed for storage room for farm tools and seeds, rain shelter and toilet and electricity meter room. One visitor private car parking space would be provided within the Site.

- 1.3 No filling of land and site formation would be undertaken at the Site. The proposed excavation of land (about 27 m² in area and 0.3m in depth) is intended for the provision of surface U-channel for dissipation of stormwater. The operation hours of the proposed hobby farm will be 9 a.m. to 7 p.m. daily (including public holidays). The proposed development will serve at most four persons per day. 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, proposed drainage plan and proposed excavation plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 12.6.2023 (Appendix I)
 - (b) Supplementary Information (SI) received on 14.6.2023 (Appendix Ia)
 - (c) Further Information (FI) received on 7.7.2023* (Appendix Ib)
 - (d) FI received on 20.7.2023* (Appendix Ic)
 - (e) FI received on 11.10.2023* (Appendix Id)
 - (f) FI received on 2.11.2023* (Appendix Ie)
- *exempted from publication and recounting requirements*
- 1.5 On 11.8.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application as requested by the applicant's representative for two months.

2. Justifications from the Applicant

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

- (a) The proposed development is a passive recreational outlet providing an opportunity for the urban dwellers to experience the interest of farming, which is in line with the planning intention of the "GB" zone. Similar applications have been approved by the Board in the same "GB" zone in 2022 and in "GB" zones in other OZPs. Moreover, the idle site would be better utilised and managed in the form of commercial operation.
- (b) The proposed development is in 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. The access and parking arrangement would not

adversely affect any trees.

- (c) The proposed development would pose minimal traffic, noise, environmental and drainage impacts to the surrounding areas.

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

The applicant is not the “current land owner” of the Site 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 registered post to the Tuen Mun Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPG PG-No. 31A are not applicable to the GL portion.

4. Town Planning Board Guidelines

TPB PG-No. 10 is relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is the subject of a planning enforcement action against unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice (EN) was issued on 11.5.2023 requiring discontinuation of the UD. Site inspection in August and September 2023 revealed that the UD still continued upon expiry of the EN, prosecution action may be followed.

6. Previous Applications

The Site is involved in four previous applications (No. A/TM-SKW/87, 88, 91 and 92) for proposed house (New Territories Exempted House - Small House) covering different extents of the Site. All four applications were rejected by the Rural and New Town Planning Committee (the Committee) or the Board on review between 2014 and 2015. The considerations for the previous applications are not relevant to the current application which involves a different use. Details of the applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Application

There is one similar application (No. A/TM-SKW/113) involving the same “GB” zone (with a minor portion falls within the “Village Type Development” zone) for temporary hobby farm for three years and associated excavation of land (**Plan A-1**). The application was approved with conditions by the Committee on 4.3.2022 mainly on considerations that the proposed hobby farm was generally in line with the planning

intention of the “GB” zone and TPB PG-No. 10; the proposed development was not incompatible with the surrounding environment; and there were generally no adverse comments from concerned government departments and the technical concerns could be addressed by approval conditions (**Appendix III**).

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

8.1 The Site is:

- (a) partly fenced off, covered by vegetation with deposit of containers; and
- (b) accessible via a local track leading from So Kwun Wat Tsuen Road.

8.2 The surrounding areas are predominantly rural fringe in character with mainly residential structures and agricultural land inter-mixed with parking of vehicles, storage yards, woodland, hobby farm, vacant land and unused land. The storage yards and parking of vehicles in the vicinity are suspected UDs subject to planning enforcement action.

9. Planning Intention

9.1 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.

9.2 As diversion of stream, filling of pond/ land or excavation of land may cause adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices IV and V** respectively.

11. Public Comments Received During the Statutory Publication Period

On 20.6.2023, the application was published for public inspection. During the statutory public inspection period, four public comments were received from the Kadoorie Farm & Botanic Garden Corporation and three individuals (**Appendices VI-1 to VI-4**) objecting to the application on the grounds that increased traffic flow incurred by the proposed development would create adverse traffic impact and pedestrian safety issue; the proposed development is not in line with the intention of “GB”; and the Site maybe involved in ongoing enforcement case.

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 three years and associated excavation of land at the Site zoned “GB” on the OZP (**Plan A-1**). According to the proposal, the majority of the Site will be used as farm area for hobby farming (about 305m² or 61.7% of the Site) with the remaining areas used for three temporary single-storey structures, a visitor private car parking space and manoeuvring space (**Drawing A-3**). Given that the proposed hobby farm can provide passive recreational outlet in the area, it is considered not in conflict with the planning intention of the “GB” zone. The Director of Agriculture, Fisheries and Conservation also has no comment on this application from nature conservation and agricultural perspectives. Taking into account the planning assessments below, the proposed development on a temporary basis of three years could be tolerated.
- 12.2 The Site is situated in an area of rural fringe landscape character predominated by villages, farmlands, vacant land mixed with temporary storage yards and parking of vehicles (**Plan A-2**). The proposed development, which is small in scale and comprises more than 60% of the Site for cultivation, is considered not incompatible with the surrounding environment.
- 12.3 As stated in the TPB-PG No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Also, the development should not involve extensive clearance of vegetation and affect the existing natural landscape as well as overstrain the capacity of existing and planned infrastructure in the area. Passive recreational use which is compatible with the character of the surrounding area may be given sympathetic consideration. In this regard, the proposed hobby farm is of a relatively small scale with over 60% of the Site (about 61.7%) proposed for cultivation purpose, and no site formation will be carried out at the Site. The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application as the proposed development is considered not incompatible with the landscape character due to its fringe location of the adjacent village setting and significant landscape impact arising from the proposed development is not anticipated as no tree felling is proposed for the proposed development. In view of the above, and with the views of other concerned departments as stated in paragraph 12.4 below, the proposed temporary hobby farm is considered not in conflict with TPB PG-No. 10.
- 12.4 The proposed excavation of land is not substantial (27m² or 5.5% 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. The Chief Engineer/Mainland North of Drainage Services Department has no comment on the drainage proposal submitted by the applicant from public drainage viewpoint. Other relevant government departments including the Director of Environmental Protection, Commissioner for Transport and Director of Fire Services also have no objection to/ no adverse comment on the application from environmental, traffic and fire safety aspects. To minimised any potential

environmental nuisance and to address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.

- 12.5 There is a similar application for temporary hobby farm and associated excavation of land involving the same “GB” zone approved by the Committee in 2022 on grounds as stated in paragraph 7 above. Approval of the current application is therefore in line with the Committee’s previous decision.
- 12.6 There are four public comments objecting to the application on grounds as summarised in paragraph 11 above. The background in paragraph 5 and 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, 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 three years until 8.12.2026. 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 during the planning approval period;
- (b) 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 **8.9.2024**;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 **8.6.2024**;
- (e) 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 **8.9.2024**;

- (f) if any of the above planning condition (a) or (c) 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;
- (g) if any of the above planning condition (b), (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; and
- (h) 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 V**.

- 13.3 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 "GB" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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

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| Appendix I | Application Form received on 12.6.2023 |
| Appendix Ia | SI received on 14.6.2023 |
| Appendix Ib | FI received on 7.7.2023 |
| Appendix Ic | FI received on 20.7.2023 |

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| Appendix Id | FI received on 11.10.2023 |
| Appendix Ie | FI received on 2.11.2023 |
| Appendix II | Extracts of TPB PG-No. 10 |
| Appendix III | Previous and Similar Applications |
| Appendix IV | Government Departments' General Comments |
| Appendix V | Recommended Advisory Clauses |
| Appendices VI-1 to VI-4 | Public Comments |
| Drawing A-1 | Proposed Layout Plan |
| Drawing A-2 | Vehicular Access Plan |
| Drawing A-3 | Proposed Drainage Plan |
| Drawing A-4 | Proposed Excavation Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a and A-4b | Site Photos |

**PLANNING DEPARTMENT
DECEMBER 2023**