

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1116

- Applicant** : Kings Joyful Limited represented by R-riches Property Consultants Limited
- Site** : Lots 341 S.A, 341 S.B, 341 S.C (Part), 341 S.D, 341 S.E and 341 RP in D.D.128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 1,270 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 5 Years and Land Filling

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years and land filling. The Site falls within an area zoned “AGR” on the Approved Ha Tsuen Fringe OZP No. S/YL-HTF/12 (**Plan A-1**). According to the Notes of the OZP for “AGR” zone, ‘Place of Recreation, Sports or Culture (Hobby Farm)’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently vacant and fenced-off, which is partly covered with vegetation/weeds and partly covered with concrete (**Plans A-2, A-4a and 4b**).
- 1.2 The Site is the subject of a previous application (No. A/YL-HTF/1090), covering the same site for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years by the same applicant, which was approved by the Rural and New Town Planning Committee (the Committee) on 6.7.2018. The application was revoked on 6.12.2020 due to non-compliance with approval condition on landscape, drainage and fire safety aspects. Details of the previous application are at **Appendix II**.
- 1.3 The Site is accessible from Deep Bay Road via a local track with ingress/egress located at the eastern side of the Site (**Drawings A-1, A-2 and Plan A-2**). As shown on the layout plan and land filling plan at **Drawings A-1 and A-2**, about 795m² (about 63% of the Site) will be used for farm area, about 208m² (about 16%

of the Site) will be soiled ground for circulation space and about 267m² (about 21% of the Site) will be hard-paved with depth not more than 0.2m for site formation of temporary structures. Five temporary structures with height of 3.5m to 6.5m (1 to 2-storey) will be provided with a total floor area of 375m² for plant nursery, reception, changing room, storage of farm tools, agricultural education room and fire service water tank and control panel uses.

- 1.4 According to the applicant, the operation hours of the Site are from 9:00 a.m. to 6:00 p.m. every day. The estimated number of visitors is 20 persons per day. The visitors are required to make appointment in advance for visiting the Site. The visitors are required to take public transport to Deep Bay Road and walk to the Site. There will be about five staff working at the Site. The proposed layout plan, proposed paved and unpaved area plan, proposed drainage plan and proposed fire service installations plan are at **Drawings A-1 to A-4** respectively.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with planning statement and plans (**Appendix I**) received on 28.4.2021
 - (b) Further Information (FI) responding to Transport (**Appendix Ia**) Department's (TD) comments received on 27.5.2021
[exempted from publication requirements]

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarized as follows:

- (a) The proposed development, on a temporary basis, will not frustrate the long-term planning intention of the "AGR" zone. It would not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.
- (b) The Site involves a previously approved planning application No. A/YL-HTF/1090 for the same use by the applicant. Approval of the application will not set an undesirable precedent.
- (c) Type of crops that will be grown at the Site includes fruit and vegetable. Pesticides will not be used at the Site to promote organic farming. The visitors are free to carry away the crops.
- (d) As heavy loading of structures would compact the existing soiled ground and weaken the ground surface, concrete site formation is required to provide stronger ground reinforcement to stabilize the existing soiled ground and prevent erosion from surface run-off. The land filling of concrete is therefore required for the operation and has been kept to minimal.
- (e) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.

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

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

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Application

5.1 The Site involves one previous application (No. A/YL-HTF/1090) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years, which was approved by the Committee in 2018 on the considerations of not incompatible with the surrounding areas, no adverse comments from relevant Government departments and the technical concerns raised by the Government departments could be addressed by approval conditions. The application was revoked on 6.12.2020 due to non-compliance with approval conditions on landscape, drainage and fire safety aspects. Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

5.2 Compared with the previous application, the current application is submitted by the same applicant for the same use (without land filling) at the same site with same layout and development parameters, but for a shorter approval period.

6. Similar Applications

Within the same “AGR” zone, there are two similar applications (No. A/YL-HTF/1091 and 1106) for temporary hobby farm with/without land filling for a period of 3 years which were approved with conditions by the Committee in 2018 and 2020 mainly on considerations as set out in paragraph 5.1 above. Details of these applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-2, A-4a and A-4b)

7.1 The Site is:

- (a) currently vacant and fenced off;
- (b) partly covered with vegetation/weed and partly covered with concrete; and
- (c) accessible from Deep Bay Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its east is grassland;
- (b) to its south is grassland, a public utility installation and an open storage yard which is a suspected unauthorized development (UD);

- (c) to its west is vacant land, grassland, a workshop, an open storage yard and a warehouse which are suspected UD; and
- (d) to its north is an open storage yard for construction materials which is a suspected UD, a sauce workshop and a residential structure. To its further north across Deep Bay Road is the coastal area of Deep Bay.

8. Planning Intention

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. As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, 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.
- (b) The private land of Lots 341 S.A, 341 S.B, 341 S.C, 341 S.D, 341 S.E and 341 RP in D.D.128 are covered by a Short Term Waiver (STW) No. 4975 to permit structures for the purpose of ‘temporary place of recreation, sports or culture (hobby farm)’.
- (c) Should planning approval be given to the application, the STW holder will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

He has no adverse comment on the application from traffic engineering

point of view.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Agriculture

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

The Site falls within an area zoned “AGR” on the OZP and possesses potential for agricultural rehabilitation. He has no strong view against the application for the proposed use and land filling from agricultural point of view on the understanding that agricultural activities are involved in the proposed use and the Site will be reinstated upon expiry of the planning approval.

Environment

9.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) He has no adverse comment on the application.
- (b) There is one substantiated waste complaint pertaining to the Site in the past three years.
- (c) Should the planning application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’.

Landscape

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

- (a) With reference to the site visit on 17.5.2021 and aerial photo of 2020, the Site is partly hard paved and partly covered by wild grasses. Existing trees of weedy and common species are observed at the northern and southeast portions of the Site. The Site is situated in an area of rural coastal landscape character predominated by woodland to the immediate east and mangroves to the further northwest of the Site. Open car parks are found to the immediate west of the Site within the “AGR” zone. The proposed development is not entirely incompatible with the surrounding landscape character. Hence, he has no objection

to the application from landscape planning perspective.

- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

Drainage

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest a condition should be stipulated in the approval letter requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

9.1.8 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 V**.

Fire Safety

9.1.9 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. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix V**.

Others

9.1.10 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DevB):

The AMO has no in-principle objection to the application from the built heritage and archaeological conservation perspective. The applicant should be reminded of the detailed comments at **Appendix V**.

District Officer's Comments

9.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals and he has no comment from departmental point of view on the application.

9.2 The following Government departments have no comment on the application:

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

10. Public Comments Received During Statutory Publication Period

On 7.5.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application (**Appendix IV**) on the following grounds:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone;
- (b) the proposed development will have adverse landscape and environmental impacts to the surrounding areas; and
- (c) the proposed development would set an undesirable precedent for similar applications.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 5 years and filling of land at the Site zoned “AGR” on the OZP. 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. The requirement for planning permission for land filling operation is to ensure that it would not cause adverse drainage and environmental impacts on the adjacent areas. The hobby farm under application consists of farm area (about 795m² or 63%), soiled ground for circulation space (about 208m² or 16%) and hard-paved with depth not more than 0.2m for site formation of five temporary structures (about 267m² or 21%) for plant nursery, reception, changing room, storage of farm tools, agricultural education room and fire service water tank and control panel uses. DAFC has no objection to the application from the agriculture point of view taking account of the fact that a substantial portion of the Site is to be used for agriculture purpose and the Site will be reinstated upon expiry of the planning approval. The proposal involving agriculture/farming use and filling of land is considered not in conflict with the planning intention of the “AGR” zone.

- 11.2 The Site is situated in an area of rural coastal landscape character predominated by trees and mangroves with some temporary structures (**Plans A-2 and A-3**). The proposed development involving mainly farming area (63% of the Site) and five low-rise structures (with heights of 3.5m to 6.5m or 1 to 2-storey) is not incompatible with the surrounding areas.
- 11.3 The nature and scale of the proposed development will unlikely result in significant adverse landscape, environmental, traffic and drainage impacts on the surrounding areas and there is no adverse comment from concerned Government departments, including CTP/UD&L of PlanD, DEP, C for T and CE/MN of DSD. Relevant approval conditions have been recommended in paragraph 12.2 to address the technical requirements of concerned Government departments. Any non-compliance with the approval conditions would result in revocation of the planning permission and UD on the Site would be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the surrounding areas.
- 11.4 The Site is the subject of a previous approved application (No. A/YL-HTF/1090) for the same use without land filling for a period of 3 years by the same applicant, which was subsequently revoked due to non-compliance with approval conditions on landscape, drainage and fire safety aspects. For the current application, the applicant has submitted drainage proposal and FSIs proposal (**Drawings A-3 and A-4** respectively) and CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no in-principle objection to the application. In view of this, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with approval conditions. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.5 The Committee has approved two similar applications for hobby farm use (No. A/YL-HTF/1091 and 1106) for a period of 3 or 5 years with/without land filling within the same "AGR" zone (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.
- 11.6 There is one public comment objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, 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 **25.6.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the implementation of the accepted 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 **25.12.2021**;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a landscape proposal within **3 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **25.9.2021**;
- (e) in relation to (d) above, the implementation of the landscape proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **25.12.2021**;
- (f) the submission of a fire service installations proposal within **3 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **25.9.2021**;
- (g) in relation to (f) above, the implementation of the 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 **25.12.2021**;
- (h) if any of the above planning conditions (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;
- (i) if any of the above planning conditions (b), (d), (e), (f) or (g) 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
- (j) upon expiry of the planning permission, the reinstatement of the Site to 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use and land filing are 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and attachments received on 28.4.2021
Appendix Ia	FI received on 27.5.2021
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications within the same “AGR” zone
Appendix IV	Public Comment
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Paved and Unpaved Area Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	Proposed Fire Service Installations Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2021**