

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1130

- Applicant** : Mr. TO Wong represented by Metro Planning and Development Company Limited
- Site** : Lots 222 RP (Part), 223 (Part), 224 S.D (Part), 225, 226, 227 and 228 (Part) in D.D. 128, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 3,100 m²
- Lease** : Lots 223, 224 S.D, 225, 226, 227 and 228 in D.D. 128 :
Block Government Lease (demised for agricultural use); and

Lot 222 RP in D.D. 128 :
Tai Po New Grant No. 5560 (New Grant Agricultural Lot)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

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 at the application site (the Site). The Site falls within an area zoned “CPA” on the Approved Ha Tsuen Fringe OZP No. S/YL-HTF/12 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently mainly used as playground and covered with grassland without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawing A-1 and Plan A-2**). As shown on the layout plan at **Drawing A-2**, the proposed ingress/egress point is at the south-eastern boundary of the Site. About 95% of the Site (2,940m²) will be used as farming area. One temporary structure with floor area of 30m² and building height of 1 storey (not exceeding 3m) is proposed for storage of tools and fertilizer. Five private car parking spaces are also proposed at the eastern portion of the Site. The operation hours are from 9:00 a.m. to 7:00 p.m. daily. The maximum number of visitors per day is 16. No land filling will be carried

out at the Site. The access plan, layout plan and drainage plan are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is the subject of five previous applications (No. A/YL-HT/290, 310, 317, 805 and A/YL-HTF/1100) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the Application Form and attachments received on 26.1.2022 (**Appendix I**).
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 18.3.2022 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

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 previous application (No. A/YL-HTF/1100) was revoked due to non-compliance with condition on removal of hard paving. The applicant has removed all hard paving within the Site.
- (b) The applied use involves minimal temporary structure. It makes use of the existing natural resources and land for cultivation to allow the public to enjoy the natural environment. The applied use will revitalize the Site with the support of commercial operation.
- (c) The applied use is similar to agricultural use which is always permitted within the “CPA” zone. The Board has approved a temporary fishing ground adjoining the Site and similar hobby farm uses in the same “CPA” zone.
- (d) The applied use is compatible with the surrounding landscape setting and uses.
- (e) There will be no traffic, environmental and drainage impacts to the surroundings.

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

The applicant is not the “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 registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The current use at the Site would be subject to enforcement action.

5. Previous Applications

- 5.1 The Site involves five previous applications (No. A/YL-HT/290, 310, 317, 805 and A/YL-HTF/1100) for pond filling for agriculture use, temporary organic farm or hobby farm use. Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-HT/290, 310 and 317 (covering a small portion of the Site and the land/ponds at its north and northeast in a larger site extent of about 1.45ha) for pond filling for agriculture uses were all rejected by the Committee in 2003. The rejection reasons were that the proposals involved permanent filling of fish ponds which would result in significant loss of flood storage and no technical assessment had been submitted to demonstrate no adverse drainage impact; part of the concerned site fell within the proposed resumption limit of the Hang Hau Tsuen Channel and Associated Works Phase I project and approval of the applications would pose constraint to the implementation of the project; the proposed developments were not in line with the planning intention of the “CPA” zone; there was insufficient information to demonstrate no adverse landscape impact; and the proposed developments would set an undesirable precedent for other similar applications.
- 5.3 Application No. A/YL-HT/805 (covering a major portion of the Site and the land at its north, northeast and southeast in a much larger site extent of about 2.2ha) for temporary organic farm with ancillary education and activity centre and small-scale barbecue spot was rejected by the Board on review in 2013 on the grounds of not in line with the planning intention of the “CPA” zone, insufficient information to demonstrate no adverse landscape impact and setting an undesirable precedent.
- 5.4 The last application No. A/YL-HTF/1100 (covering the Site and the land at its north of about 3,924m²) for proposed temporary place of recreation, sports or culture (hobby farm) was approved with conditions by the Committee in 2020 on the considerations that the proposed development was not incompatible with the surrounding areas and there were no adverse departmental comments. However, the application was revoked on 11.11.2021 due to non-compliance with condition on removal of hard-paving at the Site before operation of the hobby farm and no additional land filling at the Site.
- 5.5 Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with smaller area.

6. Similar Applications

Within the same “CPA” zone, 2 similar applications (No. A/YL-HTF/1094 and 1097) for temporary place of recreation, sports or culture uses were approved with conditions by the Committee in 2019 mainly on considerations of only using the existing fish ponds as recreational fishing ground and no pond filling being involved (for A/YL-HT/1094 only), not undermining the long-term planning intention of the “CPA” zoning, no adverse departmental comments and the technical concerns raised by government departments be addressed by approval conditions. Details of these applications are summarized at **Appendix III** while 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 partly used as a playground which is a suspected unauthorized development (UD) and largely covered with grassland (**Plan A-4b**); and
- (b) accessible from Deep Bay Road via a local track to the northeast (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north is an open storage yard which is a suspected UD, a site for temporary place of recreation, sports or culture (fishing ground) with valid planning permission (**Plan A-2**);
- (b) to its west, southwest and northwest are some residential structures and a temple and to its further west is mangrove of the Deep Bay;
- (c) to its south is a plant nursery which is a suspected UD; and
- (d) to its east and southeast are storage areas, an office and an open storage yard which are suspected UDs.

8. Planning Intention

8.1 The planning intention of “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion.

8.2 There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

9. Comments from Relevant Government Departments

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

10. Public Comments Received During Statutory Publication Period

On 8.2.2022, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received from the Conservancy Association and an individual objecting to the application (**Appendices VI-1 and VI-2**) mainly on the grounds of not in line with the planning intention of the “CPA” zone, adverse environmental impacts to the surroundings and undesirable precedent of ‘destroy first, build later’.

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 3 years at the Site zoned “CPA” on the OZP. The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It is noted that about 95% of the Site is proposed for hobby farm use which is mainly related to agricultural activities (**Drawing A-2**) and the applicant has removed all hard-paving at the Site. In this regard, DAFC has no adverse comment on the application from agricultural and nature conservation points of view. As such, approving the application on a temporary basis will not undermine the long-term planning intention of the “CPA” zoning.
- 11.2 The Site is surrounded by recreational use, fish ponds, scattered residential structures and open storage yards (**Plans A-2 and A-3**). The proposed development is considered not incompatible with the surrounding areas.
- 11.3 There is no adverse comment from the concerned government departments, including DEP, C for T, CE/MN of DSD and CTP/UD&L of PlanD. The proposed development will unlikely create significant adverse environmental, traffic, drainage and landscape impacts to the surrounding areas. To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the 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 on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved two similar applications for fishing ground or hobby farm uses (No. A/YL-HTF/1094 and 1097) within the same “CPA” zone (**Plan A-1**). Approval of this application is in line with the Committee’s previous decisions. Besides, the Site is the subject of five previous applications for various uses. The first four applications (No. A/YL-HT/290, 310, 317 and 805) covering a much larger site extent were rejected mainly on the ground of involving permanent filling of fish ponds and adverse drainage and landscape impacts. The last previous application (No. A/YL-HTF/1100) submitted by the same applicant for the same use at the same site with a slightly larger area was approved in 2020. However, the planning permission under the last previous application was revoked due to non-compliance with condition on removal of hard-paving at the Site before operation of the hobby farm and no additional land filling at the Site. Prior to the submission of the current application, the applicant has removed all hard-paving at the Site (**Plans A-4a and A-4b**). As such, sympathetic consideration may be given to the application. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission again, sympathetic consideration would not be given to any further applications.
- 11.5 There were 2 public comments objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.4 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the proposed temporary place of recreation, sports or culture (hobby farm) could be tolerated for a period of 3 years.
- 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 3 years until **1.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no land filling, as proposed by the applicant, is allowed on the site during the approval period;
- (b) the submission of revised 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 **1.12.2022**;
- (c) in relation to (b) above, the implementation of revised 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 **1.3.2023**;
- (d) in relation to (c) above, the implemented drainage facilities 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 **1.12.2022**;
- (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 **1.3.2023**;
- (g) if any of the above planning conditions (a) 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 (b), (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 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 is not in line with the planning intention of the "CPA" zone, which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. 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 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 26.1.2022
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same "CPA" zone
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendices VI-1 and VI-2	Public Comments
Drawing A-1	Site Access Plan
Drawing A-2	Layout Plan
Drawing A-3	Drainage 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
JUNE 2022**