

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-LFS/403**

- Applicant** : Mr. LAW Yin Kwong represented by R-riches Property Consultants Limited
- Site** : Lot 10RP(Part) in D.D. 128, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,053m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10
- Zoning** : “Residential (Group D)” (“R(D)”)  
[Maximum building area of 37.2m<sup>2</sup> and maximum building height of 2 storeys (6m)]
- Application** : Temporary Barbecue Area for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary barbecue area for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “R(D)” on the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/10. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Besides, filling of land within the “R(D)” zone requires planning permission from the Board. The Site is currently occupied by the applied use and partly hard paved without valid planning permission.
- 1.2 The proposal comprises an uncovered area (about 960.5m<sup>2</sup>, or 91% of the Site) for barbecue activity, and 7 one-storey structures (with a total covered area of about 92.5m<sup>2</sup> or 9% of the Site, and height ranging from 2.7m to 4m) for reception, refreshment kiosk, storage of goods, rain shelter and portable toilets. According to the applicant, the operation hours are between 8:00a.m. and 11:00p.m. from Mondays to Sundays (including public holidays). A maximum of 15 barbecue grills will be used at the same time. The Site is accessible from Deep Bay Road via a local track. No parking spaces are provided. Visitors and staff are required to take public transport to/from Deep Bay Road and then walk to/from the Site. The proposed layout plan and access plan are at **Drawings A-1** and **A-2** respectively.

- 1.3 According to the applicant, the estimated maximum number of visitors to the Site per day will be about 30 and the estimated number of staff working at the Site will be 8. Advanced booking by visitors will be required. The use of public announcement systems, audio amplifiers and loudspeakers will be prohibited at the Site. Septic tank will be provided.
- 1.4 Moreover, according to the applicant, an area of about 161m<sup>2</sup> or 15% of the Site has been concrete-paved for not more than 0.1m in depth for circulation space and erection of a structure. No additional filling of land will be carried out at the Site. A layout plan of the land filled area is at **Drawing A-3**.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 23.6.2021 (**Appendix I**)
  - (b) Supplementary Information received on 25.6.2021 (**Appendix Ia**)
  - (c) Further Information received on 20.7.2021 providing (**Appendix Ib**) clarifications on measures to mitigate environmental nuisance (*exempted from the publication requirement*)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Application Form and the supplementary information at **Appendices I and Ia**. They can be summarised as follows:

- (a) The applicant would like to operate a new barbecue area to serve the nearby locals.
- (b) The application is only on a temporary basis and will not jeopardise the long-term planning intention of the “R(D)” zone.
- (c) Advanced booking by the visitors is required so as to regulate the number of visitors, avoid overcrowding and minimise adverse impact to the surroundings.
- (d) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department (EPD).
- (e) The proposed development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. Adequate mitigation measures, i.e. submission of drainage, landscape and fire service installations proposals will be provided to minimise 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 posting site notice and sending notification to Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the

meeting for Members' inspection.

#### **4. Background**

If there is sufficient evidence to prove unauthorized development on the Site under the Town Planning Ordinance, enforcement action would be instigated.

#### **5. Previous Application**

5.1 The Site forms part of a previous application (No. A/YL-LFS/156) for proposed residential development with minor relaxation of plot ratio from 0.2 to 0.2334 at the "R(C)" and "R(D)" zones, which was approved with conditions by the Committee on 27.7.2007 mainly on considerations that the proposed development was in line with the planning intentions of both "R(C)" and "R(D)" zones; the minor relaxation in aggregate plot ratio was purely technical in nature and not incompatible with the surrounding rural environment; concerned Government departments have no adverse comment on the proposed development or the technical concerns could be addressed by approval conditions. However, the proposed development was not implemented and the planning permission lapsed on 28.7.2011.

5.2 Details of the above previous application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

#### **6. Similar Application**

There is no similar application for barbecue use within the subject "R(D)" zone.

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

7.1 The Site is:

- (a) currently occupied by the applied use without valid planning permission, and erected with structures/sheds mainly for shelter along its southern and western periphery;
- (b) partly grown with grasses while partly paved with concrete; and
- (c) located to the west of Deep Bay Road and is accessible via a track on Government Land and private lots branching off Deep Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and east is a recreational use covered by valid planning permission (No. A/YL-LFS/323). To the further northeast is a low-rise residential development named Deep Bay Grove;
- (b) to the south are scrubland and a pond, residential dwellings and cultivated agricultural land. To the southeast is a vacant formed land. To the further

south is a nullah; and

- (c) to the immediate west are the village settlements of Hang Hau Tsuen. To the further northwest is fallow agricultural land.

## **8. Planning Intention**

- 8.1 The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.
- 8.2 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment, 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 summarised 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 Lot 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) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to this office for permitting the structures to be erected or to regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by the Lands Department 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 rent or fee, as may be imposed by the LandsD.

### **Traffic**

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

- (a) Adequate drainage measures should be provided at the site access to

prevent surface water flowing from the Site to nearby public roads/drains.

- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

### **Environment**

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application subject to the imposition of the condition on prohibiting the use of public announcement systems, audio amplifier and loudspeakers to minimize any noise impact from the proposed use.
- (b) There is no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

### **Landscaping**

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

- (a) She has no objection to the application from landscape planning perspective.
- (b) The Site (about 1,053m<sup>2</sup>), located to the west of Deep Bay Road, falls within an area zoned “R(D)” on the OZP. The Site is subject to one previous approved planning application (No. A/YL-LFS/156) with a larger site area for proposed residential development with minor relaxation of plot ratio which was approved by the Committee on 27.7.2007. The current application seeks planning permission for temporary barbecue area for a period 3 years and filling of land. About 161m<sup>2</sup> (15% of the site area) has been paved with concrete of about 0.1m in thickness. 7 temporary structures (from 2.7m to 4m in height) and 15 barbecue grills are proposed on Site.
- (c) According to the aerial photo of 2020 and site photos taken on 8.7.2021, some temporary structures are observed within the Site. Existing trees of common species including *Bauhinia sp.* (羊蹄甲屬), *Michelia x alba* (白蘭) and *Leucaena leucocephala* (銀合歡) and bamboos are found along the southern and western boundary of the Site. The Site is situated in an area of rural coastal plains landscape character predominated by temporary structures, low-rise residential buildings, open storages and scattered tree groups. The proposed development is considered not entirely incompatible with the landscape character of the surrounding area. Significant change to the landscape character and landscape resources arising from the proposed development is not envisaged.

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

### **Drainage**

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

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

### **Fire Safety**

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

- (a) He has no objection 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 IV**.

### **Building Matters**

9.1.7 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 IV**.

### **Licencing**

9.1.8 Comments of the Director of Food and Environmental Hygiene (DFEH):

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

### **District Officer's Comments**

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

His office has not received any comment from the locals to the application.

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

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

## 10. **Public Comments Received During Statutory Publication Period**

On 2.7.2021, the application was published for public inspection. During the statutory public inspection period, 3 public comments from the Chairman of the Incorporated Owners of Deep Bay Grove and two individuals (**Appendices III-1 to III-3**) were received objecting to the application on the following grounds:

- (a) The Site is related to the recreational use covered by planning application No. A/YL-LFS/356<sup>1</sup>, the latter of which had caused severe nuisance to the residents of Deep Bay Grove.
- (b) Commercial activities amidst residential area will lead to environmental pollution, increase risk of fire hazard and adversely affect villagers' safety and quality of life.
- (c) The application is to extend the destroy-to-build area approved under planning application No. A/YL-LFS/354. The conditions of the said application had not been met.
- (d) As there is already a large amusement site close to the Site with vehicular access, there is no demand for additional facilities.

## 11. **Planning Considerations and Assessments**

11.1 The application is for temporary barbecue area for a period of 3 years and filling of land (**Plan A-1**). The Site is zoned "R(D)" on the OZP, which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the applied use is not in line with the planning intention of the "R(D)" zone, there is no known development programme at the Site and the applied use is temporary in nature which would unlikely frustrate the planning intention of the Site in the long run. Besides, the applicant seeks to regularise the filling of land (no more than 0.1m in height) for about 161m<sup>2</sup> or 15% of the Site. Filling of land within "R(D)" zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment. In this regard, CE/MN of DSD and DEP have no adverse comment from drainage and environmental perspectives.

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<sup>1</sup> From our record, the recreational use referred to by the commenter should be covered by the approved planning application No. A/YL-LFS/323 (**Plan A-3**).

- 11.2 The Site is located in an area predominantly rural in character, with low-rise residential development/dwellings and village settlements intermixed with recreational use, cultivated/fallow agricultural land and scrubland. The applied use is considered not incompatible with the surrounding areas.
- 11.3 Concerned Government departments including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comment on/objection to the application. According to DEP, there was no substantiated environmental complaint pertaining to the Site received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the applied use and the technical requirements of the concerned Government departments, relevant approval conditions have been recommended in paragraph 12.2 below. In particular, approval conditions on restricting the operation hours, as well as prohibiting the use of public announcement system, audio amplifiers and loudspeakers have been recommended to minimize potential noise nuisance. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorised development on-site would be subject to enforcement action by the Planning Authority.
- 11.4 Three public comments were received objecting to the application on grounds stated in paragraph 10 above. The planning considerations and assessments in paragraph 11.1 to 11.3 are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department considers that the temporary barbecue area for a period of 3 years with filling of land could be tolerated.
- 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 13.8.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation from 11:00 p.m. to 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no public announcement system, any form of audio amplifier and loudspeaker is allowed to be used on the Site at any time during the planning approval period;
- (c) 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 13.2.2022;
- (d) in relation to (c) above, the implementation 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 **13.5.2022**;

- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of fire service installations proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.2.2022**;
- (g) in relation to condition (f) above, the implementation of fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **13.5.2022**;
- (h) if any of the above planning conditions (a), (b) or (e) 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; and
- (i) if any of the above planning conditions (c), (d), (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.

Advisory Clauses

The recommended advisory clauses are attached 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 applied use is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification 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 the planning 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 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**

<b>Appendix I</b>	Application Form received on 23.6.2021
<b>Appendix Ia</b>	Supplementary Information received on 25.6.2021
<b>Appendix Ib</b>	Further Information received on 20.7.2021
<b>Appendix II</b>	Previous Application covering the Site
<b>Appendices III-1 to III-3</b>	Public Comments Received During Statutory Publication Period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Access Plan
<b>Drawing A-3</b>	Plan Showing Layout of the Land Filled Area
<b>Plan A-1</b>	Location Plan with Previous Application
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2021**