

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

**APPLICATION NO. A/YL-LFS/408**

- Applicant** : Mr. WONG Yu Shing represented by Metro Planning & Development Company Limited
- Site** : Lots 280 (Part), 281 (Part), 283 (Part) and 286 (Part) in D.D.129 and adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,802 m<sup>2</sup> (Including GL of about 204 m<sup>2</sup> or 7.3%)
- 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** : “Green Belt” (“GB”)
- 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) (**Plan A-1**). The Site falls within the “GB” zone on the OZP. According to the Notes of the OZP for “GB” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is largely covered with soil and partly hard-paved, and is largely vacant with some containers and structures (**Plans A-4a to 4c**).
- 1.2 The Site is accessible from Deep Bay Road via a local track. As shown on the layout plan at **Drawing A-2**, the proposed development comprises a cultivation area of about 1,890 m<sup>2</sup> (67% of the Site) for growing strawberry and vegetables such as pak choi. 2 temporary single-storey structures (not more than 4 m in height) with a gross floor area of 320 m<sup>2</sup> are proposed for (i) open shed for parking of private cars and (ii) rain shelter, agricultural storage, electricity meter room and toilet uses. According to the applicant, all concrete paving on-site will be removed and no additional filling of land will be undertaken except replacing the topsoil with soil which is suitable for cultivation (**Appendices Ia and Ic**). 6 parking spaces for private cars will be provided.

- 1.3 According to the applicant, the operation hours are from 9 a.m. to 7 p.m. daily (including public holidays). The estimated maximum number of visitors is 24 each day. No public announcement system will be used. Drainage facilities will be provided. The vehicular access plan, proposed layout plan and proposed drainage plan are at **Drawings A-1 to A-3** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 3.8.2021 (**Appendix I**)
  - (b) Supplementary Information received on 6.8.2021 (**Appendix Ia**) clarifying the removal of existing concrete paving and no filling of land on the Site
  - (c) Further Information (FI) received on 25.8.2021 providing (**Appendix Ib**) a revised drainage proposal
  - (d) FI received on 14.9.2021 clarifying the crop species to (**Appendix Ic**) grow and providing further justifications  
*[(c) and (d) are exempted from publication requirements]*

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

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

- (a) The proposed development is in line with the planning intention of “GB” zone and the Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10) as it provides passive recreational outlets which is compatible with the surrounding areas.
- (b) The proposed development will revitalize the Site which will be managed with the support of commercial operation. It may provide an opportunity for urban dwellers to experience the interest of farming.
- (c) Similar applications have been approved by the Board within the same “GB” zone.
- (d) The proposed development would pose minimal traffic, environmental and drainage impacts to the surrounding areas.
- (e) Existing structures that do not conform to the proposed development scheme will be demolished. High boundary fencing is erected to screen out eyesore developments such as open storage yards adjoining the Site.

## **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 notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, TPB PG-No. 31A is not applicable.

#### **4. Town Planning Board Guidelines**

4.1 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 and detailed at **Appendix II**.

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone;
- (b) an application for new development in “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) any proposed development on a slope or hillside should not adversely affect slope stability.

4.2 According to Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows and detailed at **Appendix III**.

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission from the Board, an ecological impact assessment (EcoIA) would also need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

## 5. **Background**

The Site is subject to an on-going enforcement action (Case No. E/YL-LFS/524) against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice (EN) was issued on 18.6.2021 requiring the UD to be discontinued by 18.8.2021. The Site is being closely monitored for compliance with the EN.

## 6. **Previous Application**

The Site does not involve any previous application.

## 7. **Similar Applications**

- 7.1 Within the same “GB” zone, there are 10 similar applications (No. A/YL-LFS/166, 172, 278, 302, 304, 311, 343, 363, 366 and 380) for hobby farm with or without other uses/facilities, 9 of which were approved while 1 was rejected by the Committee. Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

### *Approved applications*

- 7.2 Applications No. A/YL-LFS/172, 304 and 363 covering more or less the same site for hobby farm and other recreational uses were approved with conditions by the Committee between 2008 and 2020 mainly on the considerations that the proposed development was not in conflict with/in line with the planning intention of the “GB” zone and the TPB PG-No.10 while not incompatible with the surrounding environment, there were no adverse comments from concerned government departments and technical concerns could be addressed by approval conditions.
- 7.3 Applications No. A/YL-LFS/166, 278, 311, 343, 366 and 380 covering five different sites for temporary hobby farm were approved by the Committee between 2007 and 2021 mainly on similar considerations as mentioned in paragraph 7.2 above.

### *Rejected application*

- 7.4 Application No. A/YL-LFS/302 for temporary hobby farm and fishing ground was rejected by the Committee on 8.12.2017 mainly on the grounds that the applied use involving pond filling and hard paving was not in line with the planning intention of the “GB” zone and the TPB PG-No. 10 in that the development would affect natural landscape, and not in line with the TPB PG-No.12C in that it did not comply with the “no net-loss in wetland” principle.

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

- 8.1 The Site is:

- (a) largely covered with soil and partly concrete-paved at the northwest and south;
- (b) currently fenced-off, erected with an open shed and a structure at the northwest

and north. Except several containers deposited, it is largely vacant; and

- (c) accessible via a local track leading from Deep Bay Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north are open storage yards for construction/recycling materials which are suspected UD's;
- (b) to the immediate south is a vacant land; and
- (c) to the east and west are woodlands intermixed with graves.

## **9. Planning Intention**

The planning intention of "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. However, limited development may be permitted if they are justified on strong planning grounds.

## **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/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) No permission is given for occupation of the GL included in the Site (about 204 m<sup>2</sup> subject to verification). The act of occupation of GL without Government's prior approval is not allowed.
- (c) Should planning approval be given to the subject planning application, the lot owner(s) of the lot(s) will need to immediately apply to his office for permitting the structures to be erected or to regularize any irregularities on the Site, if any. The applicant has to either exclude the GL from the Site or immediately apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) of 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/are 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**

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)'s purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads/drains.
- (b) The access road connecting the Site with Deep Bay Road is not and will not be maintained by his office. HyD shall not be responsible for the maintenance of any access connecting the Site with Deep Bay Road.

### **Environment**

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

- (a) He has no objection to the application.
- (b) The proposed development includes recreational uses within Deep Bay Buffer Zone 1. According to the Environmental Impact Assessment Ordinance (EIAO), a residential or recreational development, other than New Territories Exempted House, within Deep Bay Buffer Zone 1 or 2 is a Designated Project (DP). An Environmental Permit is required for construction and operation of a DP under the EIAO. The applicant is reminded to go through the statutory process under the EIAO for the construction and operation of the proposed development and to conduct further assessments to confirm the environmental acceptability of the proposed development under the statutory EIAO process.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses

and Open Storage Sites” (“COP”).

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

### **Landscaping**

10.1.5 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 the landscape planning perspective.
- (b) Referring to the aerial photo in 2020 (**Plan A-3**), the Site is concrete-paved and situated in an area of rural coastal plains landscape character predominated by woodland, scrubland, temporary structures, open storages and ponds. The proposed development is considered not entirely incompatible with the landscape character of the surrounding area.
- (c) According to site photos (**Plans A-4a to 4c**), the concrete paving within the Site has already been removed and existing vegetation of weed tree species *Leucaena leucocephala* (銀合歡) are found within the Site. Also, 3 existing mature trees of common species *Celtis sinensis* (朴樹) (DBH of 0.5-0.6m) in fair condition are found very close to the northern boundary of the Site. According to the submitted planning statement, no filling of land will be carried out except replacing the topsoil with soil which is suitable for cultivation purpose. Similar planning applications (No. A/YL-LFS/343, 366 and 380) for hobby farms were approved by the Committee within the same “GB” zone and significant adverse landscape impact arising from the proposed development is not envisaged.
- (d) The applicant should be reminded of the detailed comments at **Appendix VI**.

### **Agriculture and Nature Conservation**

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

- (a) He has no adverse comment on the application.
- (b) The Site falls within the “GB” zone and WBA. It is concrete-paved with low ecological value.
- (c) According to the site photos, it seems that the site surface has been compacted by heavy construction machines. Cultivation would be impeded in such surface condition. It is noted from the FI that the applicant would replace the top soil with soil suitable for cultivation. He has no comment on the application from agricultural point of view.

### **Drainage**

#### 10.1.7 Comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of 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 implement the accepted drainage proposal and maintain the proposed drainage facilities to the satisfaction of his department.
- (c) The applicant should be reminded of the detailed comments at **Appendix VI**.

### **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. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The applicant should note his detailed comments at **Appendix VI**.

### **Building Matters**

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix VI**.

### **Geotechnical**

#### 10.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) According to his record, suspected unauthorised site formation works within or in the vicinity of the Site were referred by relevant



departments in 2008. This above information should be taken into account in considering the application.

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

**District Officer's Comments**

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

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

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

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

**11. Public Comment Received During Statutory Publication Period**

On 10.8.2021, the application was published for public inspection. During the statutory public inspection period, 1 public comment from an individual (**Appendix V**) was received objecting to the application on the grounds that the area including the Site had been damaged. It is suspected that the application was to legitimize inappropriate uses thereat.

**12. Planning Considerations and Assessments**

12.1 The application is for proposed temporary place of recreation, sports and culture (hobby farm) for a period of 3 years. The Site falls within the "GB" zone which is intended 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. However, limited development may be permitted if they are justified on strong planning grounds. As shown on the proposed layout plan (**Drawing A-2**), a majority of the Site (about 1,890 m<sup>2</sup> or 67% of the Site) is proposed for cultivation area. According to the applicant, all existing concrete paving on-site will be removed and no additional filling of land will be carried out except replacing the topsoil with soil which is suitable for cultivation. There will be 2 temporary single-storey structures (not more than 4 m in height) with a gross floor area of 320 m<sup>2</sup> for agricultural-related storage, private car parking and ancillary uses. In view of the above, the proposed development is considered not in conflict with the planning intention of the "GB" zone.

12.2 In view of the nature and scale of the proposed development as mentioned in paragraph 12.1 above, it is considered not incompatible with the surrounding area predominated by woodland intermixed with graves and temporary structures.

- 12.3 According to the TPB PG-No.10, while new development will only be considered in exceptional circumstances and must be justified with very strong planning grounds, passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration. Development in the “GB” zone should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding area. In this regard, CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact arising from the proposed development is not envisaged. The proposed development is generally in line with the TPB PG-No.10.
- 12.4 Although the Site falls within the WBA under the TPB PG-No. 12C, the guidelines specify that planning application for temporary uses are exempted from the requirement of EcoIA. DAFC considered that the Site had been concrete-paved with low ecological value and has no adverse comment on the application from nature conservation perspective.
- 12.5 The proposed development will unlikely create significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas. Concerned Government departments, including C for T, DEP, CE/MN of DSD and D of FS have no objection to/ adverse comments on the application. To minimize any possible environmental nuisance, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 13.2 below. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimise the potential environmental nuisance to the surrounding area.
- 12.6 There is no previous application at the Site. However, the Committee has approved 9 similar applications within the same “GB” zone for hobby farm use. Although 1 similar application (No. A/YL-LFS/302) was rejected by the Committee, it involved pond filling and hard paving that DAFC did not support the application. For the current application, the existing concrete-paving on-site will be removed and no additional filling of land will be carried out except replacing the topsoil with soil which is suitable for cultivation. DAFC has no adverse comment on the application from nature conservation and agriculture point of view. As such, approval of the current application is in line with the Committee’s previous decisions on approving similar applications.
- 12.7 There is 1 public comment received objecting to the application on the grounds as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 above and having taken into the public comment 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 24.9.2024. The following conditions of approval and advisory clauses are also

suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the removal of all hard-paving on the Site, as proposed by the applicant, before operation of the proposed development;
- (c) no vehicles exceeding 5.5 tonnes are allowed to be parked/stored or enter/exit the Site at any time during the planning approval period;
- (d) 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 **24.3.2022**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 **24.3.2022**;
- (g) in relation to (f) 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 **24.6.2022**;
- (h) if any of the above planning conditions (a), (b), (c) 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;
- (i) if any of the above planning conditions (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; and
- (j) 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 VI**.

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 "Green Belt" 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 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**

<b>Appendix I</b>	Application Form received on 3.8.2021
<b>Appendix Ia</b>	Supplementary Information received on 6.8.2021
<b>Appendix Ib</b>	Further Information (FI) received on 25.8.2021
<b>Appendix Ic</b>	FI received on 14.9.2021
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 10
<b>Appendix III</b>	Relevant Extracts of TPB PG-No. 12C
<b>Appendix IV</b>	Similar applications within the same “GB” zone
<b>Appendix V</b>	Public Comment
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2021**