

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/435

- Applicant** : Mr. To Lin Sau represented by FiBi International Project Consultancy Co. Limited
- Site** : Lots 976 and 979 in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,590m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- 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 to use the application site (the Site) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the Notes for the “GB” zone of the OZP, ‘Place of Recreation, Sports or Culture’ is a Column 2 use that requires planning permission from the Town Planning Board (the Board). The Site is currently covered with vegetation (**Plans A-2 and A-4a and A-4b**). The Site is not involved in any previous application.
- 1.2 The Site is accessible from an unnamed road¹ via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises 3 structures of 1 storey (not exceeding 3m) in height, with a total floor area of about 550m² at the northern portion of the Site. The structures are for green houses, site office, toilets and storage of agricultural tools uses. The structure for site office, toilet and storage of agricultural tools will be erected using converted container, while the green houses will be built with metal pipe and covered by plastic material. 3 outdoor growing areas, with a total area of about 400m², are proposed at the southern portion of the Site. Vegetables, fruits and flowers will be grown on the Site. In sum, the total area for cultivation (including the green houses and outdoor growing areas) is about

¹ The unnamed road connects Deep Bay Road at its northwest, and Tin Yuet Road at its southeast (**Plans A-1 and A-3**).

800m² (or 50.3%). No parking or loading/unloading space is provided.

1.3 According to the applicant, the operation hours are between 9 a.m. and 7 p.m. from Mondays to Saturdays, and between 9 a.m. to 9 p.m. on Sundays and public holidays. The estimated number of visitors is about 40 per day. Public transport is available to visitors at Deep Bay Road, which is at about 500m walking distance from the Site. Except for the purpose of works, there will not be any vehicles entering/exiting the Site. Drainage facilities (i.e. surface U-channels and catchpits) will be provided. No filling of land will be undertaken at the Site. The layout plan, vehicular access plan and 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 received on 18.7.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 26.7.2022 | (Appendix Ia) |
| (c) | SI received on 27.7.2022 | (Appendix Ib) |
| (d) | Further Information (FI) received on 18.8.2022* | (Appendix Ic) |
| (e) | FI received on 31.8.2022* | (Appendix Id) |

** accepted and 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 at **Appendix I**. They can be summarised as follows:

- (a) The proposed use is temporary in nature, and would not jeopardise the long-term planning intention.
- (b) Similar applications were approved by the Rural and New Town Planning Committee (the Committee) of the Board within the same “GB” zone and in the vicinity of the Site.
- (c) The proposed use would have minimal environmental, noise and drainage impacts.

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

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

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 detailed at **Appendix II**.

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 detailed at **Appendix III**.

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Application

The Site is not involved in any previous planning application.

7. Similar Applications

- 7.1 Within the same “GB” zone, there are 10 similar applications (No. A/YL-LFS/304, 311, 343, 363, 366, 380, 408, 409, 414 and 419) for hobby farm with or without other uses/facilities and filling of land in the past 5 years. 8 of them were approved while 2 were 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/304, 311, 343, 363, 366, 380, 408 and 414 covering 6 different sites for temporary hobby farm with or without other uses/facilities were approved by the Committee between 2018 and 2021 mainly on considerations that the applied development was in line with or not in conflict with the planning intention of the “GB” zone and the TPB PG-No.10; the applied development was not incompatible with the surrounding environment; there were generally no adverse comments from concerned government departments and technical concerns could be addressed by approval conditions. However, the permissions for applications No. A/YL-LFS/304, 311, 343, 363 and 380 were subsequently revoked due to non-compliance with time-limited approval conditions, and that of Application No. A/YL-LFS/366 was also revoked due to non-compliance with approval condition restricting filling of land.

Rejected applications

- 7.3 Applications No. A/YL-LFS/409 and 419 covering the same site involving filling of soil atop concrete-paving for hobby farm were rejected by the Committee in 2021 and 2022 respectively mainly on grounds that there was no justification to show the concerned site being genuinely for hobby farm use; the concrete-paving not removed was incompatible with the surrounding environment, and the applied development was thereby considered not in line with the planning intention and TPB PG-No. 10; and/or there were adverse comments from concerned government on slope safety aspect.

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

8.1 The Site is:

- (a) currently covered with vegetation; and
- (b) accessible from Tin Yuet Road via an unnamed Road connecting Deep Bay Road and Tin Yuet Road, and a local track on private lot and Government Land.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorised developments subject to enforcement action by the Planning Authority:

- (a) to the north are shrubland, residential dwellings and an open storage yard for recyclables. To the further north across a local track is the recognised village of Mong Tseng Tsuen;
- (b) to the east and southeast are cultivated agricultural land and shrubland; and
- (c) to the west and southwest are cultivated and fallow agricultural land, plant nurseries, open storage yards and shrubland.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

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

11. Public Comment Received During Statutory Publication Period

On 29.7.2022, the application was published for public inspection. During the statutory public inspection period, 1 public comment was received from an individual (**Appendix VII**) objecting to the application on the ground that the proposed development, with cultivation area taking up only a minor portion of the Site, had an intention of ‘destroy to build’.

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 3 years. The Site falls within the “GB” zone which is

primarily intended 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, the proposed temporary hobby farm, which can be regarded as a passive recreational use and does not involve any site formation works, is considered not in conflict with the planning intention of the “GB” zone. Approval of the application on a temporary basis would unlikely frustrate the long-term planning intention of the “GB” zone.

- 12.2 The Site is situated in an area predominated by shrubland intermixed with agricultural land, plant nurseries and residential dwellings. As shown on the proposed layout plan (**Drawing A-1**), around half of the Site (about 800m² or 50.3%) is proposed for cultivation purpose (including 2 green houses and 3 outdoor growing areas). The remaining temporary structure of about 150m² in area and 3m (1 storey) in height is proposed for site office, toilets and storage of agricultural tools uses. The proposed use is considered not incompatible with the surrounding areas.
- 12.3 As stated in 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. In this regard, passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration. Furthermore, the proposed hobby farm is of a relatively small scale, with total area for cultivation taking up around half of the Site. According to the applicant, no site formation works would be undertaken. CTP/UD&L of PlanD has no comment on the application from landscape planning perspective as significant adverse landscape impact arising from the proposed development is not anticipated. As such, the proposed temporary hobby farm does not contravene TPB PG-No. 10.
- 12.4 Although the Site falls within the WBA under TPB PG-No. 12C, the guidelines specified that planning applications for temporary uses are exempted from the requirement of ecological impact assessment. DAFC has no adverse comment on the application from nature conservation perspective. The application is considered not in contravention with TPB PG-No. 12C.
- 12.5 Other concerned government departments including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no adverse comment on/objection to the application. The proposed use will unlikely generate significant adverse traffic, environmental, drainage and fire safety impacts on the surroundings. To address the technical requirements of the relevant government departments, relevant approval conditions have been recommended in paragraph 13.2 below.
- 12.6 There is no previous application covering the Site. Nevertheless, the Committee has approved 8 similar applications within the same “GB” zone in the past 5 years. Although 2 similar applications were rejected by the Committee, the circumstances of the rejected applications are different in that the proposals involved filling of soil atop concrete-paving for hobby farm, and there was no justification to show the proposals were genuinely for hobby farm use; and the applications were not in line with the planning intention and TPB PG-No. 10. Approval of the current application is in line with the previous decisions of the Committee.

- 12.7 Regarding the public comment objecting to the application as stated in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.6 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 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 **9.9.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no public announcement system, audio amplifier and loudspeaker is allowed to be used on the Site at any time during the planning approval period;
- (b) the submission of a 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 **9.3.2023**;
- (c) in relation to (b) above, the implementation of the 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 **9.6.2023**;
- (d) in relation to (c) above, the implemented drainage facilities on the Site 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 the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.3.2023**;
- (f) in relation to condition (e) above, the implementation of the 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 **9.6.2023**;
- (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 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 "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 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 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

Appendix I	Application Form received on 18.7.2022
Appendix Ia	Supplementary Information received on 26.7.2022
Appendix Ib	Supplementary Information received on 27.7.2022
Appendix Ic	Further Information received on 18.8.2022
Appendix Id	Further Information received on 31.8.2022
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comment Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**