

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/450

Applicant : Mr. Huang Jianjun

Site : Lot 256 RP in D.D. 129, Tsim Bei Tsui, Yuen Long, New Territories

Site Area : About 1,025m²

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 : “Coastal Protection Area” (“CPA”)

Application : Proposed Holiday Camp

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed holiday camp (**Plan A-1**). The Site falls within an area zoned “CPA” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the Notes for the “CPA” of the OZP, ‘Holiday Camp’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Moreover, the Site falls within the Wetland Buffer Area (WBA) according to the Town Planning Board Guidelines No. 12C for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’. The Site is currently partly used for cultivation and partly vacant (**Plans A-2 and A-4a and A-4b**).
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposed fee-paying holiday camp comprises four structures of one storey (about 3.3m) in height, with a total floor area of about 205m² for leisure room, store rooms for tools and miscellaneous items, and toilet (three portable toilets in total) uses. An open-air area of about 775m² would be designated as tent camping area which could accommodate a maximum of eight tents. Visitors may choose to rent tents at the Site or bring their own ones. The tents available for renting would not exceed 2m in height. Three parking spaces for private cars would be provided. No filling or excavation of land will be undertaken at the Site.
- 1.3 According to the applicant, the proposed development will operate 24 hours a day, including Sundays and public holidays. A maximum of 60 visitors and six staff can be accommodated at the Site. Whilst no barbecue activities would be carried out at the Site, simple catering equipment would be provided on-site for cooking light

refreshment. The proposed toilet on-site would be restricted for urination only. Visitors wishing to defecate are required to go to the nearby public toilets (the nearest at about 840m to the west of the Site)¹(**Plan A-5**). The wastewater holding tanks of the portable toilets would be tankered away off-site regularly. Wastewater from the proposed leisure room would also be discharged to the wastewater holding tanks of the portable toilets. Refuse would be delivered to refuse collection point nearby.

1.4 In support of the application, the applicant has submitted the following documents:

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|-----|---|------------------------|
| (a) | Application Form received on 12.12.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 19.12.2022 | (Appendix Ia) |
| (c) | Further Information (FI) received on 16.1.2023* | (Appendix Ib) |

** 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 Site possesses a wide field of view, wherein visitors can enjoy bird and sunset watching against the scenarios of the Deep Bay wetland and the Shenzhen cityscape;
- (b) the proposed development can provide a place for children to get in touch with the nature, acquire basic knowledge of outdoor safety and activities, and learn the appreciation of food; and
- (c) the Site is conveniently located only about ten minutes away from the Tin Shui Wai New Town, and well served by public transport. It is also in close proximity to other attractions such as the Tsim Bei Tsui Lookout.

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. Town Planning Board Guidelines

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 II** and summarised as follows.

- (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

¹ There are three public toilets in the vicinity of the Site, namely Lau Fau Shan Sha Kiu Tsuen Sheung Wan Toilet (about 840m away), Sha Kiu Ha Wan Public Toilet (about 850m away), and Sha Kiu Sheung Wan Public Toilet (about 1,065m away) (**Plan A-5**).

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. Development/redevelopment which may have negative impacts on the ecological value of the WCA would not be supported by the Board, unless the EcoIA can demonstrate that the negative impacts could be mitigated through positive measures. The assessment study should also demonstrate that the development will not cause net increase in pollution load to Deep Bay. Some local and minor uses are however exempted from the requirement of EcoIA.

5. Background

The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion that there is unauthorised development on-site under the Town Planning Ordinance, planning enforcement action would be instigated.

6. Previous Application

The Site is not involved in any previous planning application.

7. Similar Application

There is no similar application within the same “CPA” zone of the OZP.

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

8.1 The Site is:

- (a) formed and fenced off, with the northern portion being used for cultivation, whilst the remaining portion is largely vacant; and
- (b) accessible from Deep Bay Road to its southeast via a local track on Government land.

8.2 The surrounding areas of the Site have the following characteristics. Some of the uses/developments are suspected unauthorized developments (UDs) subject to planning enforcement action:

- (a) to the immediate north are ponds, a tract of fallow agricultural land, and the mangroves along the Deep Bay coastline. To the further north off the coast of Deep Bay is the Wetland of International Importance under the Ramsar Convention (the Ramsar Site);
- (b) to the east is a tract of shrubland. To the further east are the Tsim Bei Tsui Site of Special Scientific Interest (SSSI), as well as the Inner Deep Bay SSSI which falls within the Wetland Conservation Area (WCA);

- (c) to the south across Deep Bay Road are a private garden, a temporary animal shelter covered by valid planning permission under application No. A/YL-LFS/423, a pond, a parcel of cultivated land, and a woodland knoll where the Tsim Bei Tsui Lookout is located; and
- (d) to the immediate west is a site with works in progress. To the further west is a pig farm and shrubland.

9. Planning Intention

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 may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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.

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 an 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) It is noted that a rest room is proposed on the Site. According to the prevailing policy of LandsD, no Short Term Waiver application to permit structure for domestic purpose will be considered. LandsD reserves the right to take enforcement action against such domestic purpose structure in the Site, if any.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Nature Conservation and Fisheries

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

- (a) Based on his staff's recent inspection and the aerial photos, the Site is currently a piece of wasteland with some agricultural activities near the northern edge of the Site. The Site and the adjacent area to the west, south and the east are developed and disturbed. However, there are shrubland/marsh to the north of the Site, and mangroves to the further north are at about 50m away from the Site. The applicant is required to provide information on how to avoid disturbing the natural habitats including the coastal fauna and flora to the north of the Site during the construction and operation of the proposed holiday camp.
- (b) Regarding the licensed pig farm² to the west of the Site, although he has no specific comment on the application from livestock keeping license perspective, the pig farm is in close proximity to the Site (i.e. about 25m away) which may attract complaints from the future visitors of the proposed holiday camp.

Environment

10.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) She does not support the application.
- (b) There is a pig farm at about 25m to the west of the Site (**Plan A-2**), and the buffer distance recommended in paragraph 3.3.9, Chapter 9 of the Hong Kong Planning Standards & Guidelines (HKPSG), i.e. "usually a buffer distance of at least 200m from nearby sensitive uses is required" cannot be met. Since the Site is proposed for use as a holiday camp, the future users of the Site may be affected by the odour nuisance from the pig farm.
- (c) The Site falls within Deep Bay Buffer Zone 1 of the Environmental Impact Assessment Ordinance (EIAO). The use as a holiday camp can be considered as "recreation use" and is hence a potential designated project under Item P.1, Part I of Schedule 2 of the EIAO, i.e. "A residential or recreational development, other than New Territories Exempted Houses, within Deep Bay Buffer Zone 1 or 2". An Environmental Permit issued under the EIAO is required for construction and operation of the proposed development.
- (d) There is no substantiated environmental complaint pertaining to the Site in the past three years.
- (e) The applicant should be reminded of the detailed comments at **Appendix IV**.

² According to DAFC, the pig farm to the west of the Site is covered with valid Livestock Keeping Licence issued under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139L), which was first issued in 2000.

Urban Design, Visual and Landscaping

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

Landscape

- (a) She has reservation on the application from landscape planning perspective.
- (b) The Site is situated in area of rural coastal plain predominated by wetlands in Deep Bay Area, mangroves, scattered tree groups and woodland. The Site is mainly covered by bare soil, with cultivated area observed at the northern portion of the Site. Having compared the site condition through the aerial photo in 2021 and site photos in December 2022 (**Plans A-3b and A-4a**), tree felling and vegetation clearance had been undertaken at the Site. No landscape proposal was provided in the submission.
- (c) The “CPA” zone is primarily intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, whilst existing wetlands and mangroves are either in close proximity or even right next to the Site. No similar proposed use was approved in the same zone. The proposed development is considered incompatible with the surrounding landscape setting.

Urban Design and Visual

- (d) Given its scale and site context, the proposed development will unlikely induce any significant adverse visual impact on the surrounding area.

Geotechnical

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

- (a) Some unregistered slopes, which may affect or be affected by the proposed development, are present within the Site. There is insufficient information regarding the configuration of these unregistered man-made slopes. In addition, a steep slope with gradient of more than 50° is present to the northeast of the Site. As such, the applicant is required to submit a Geotechnical Planning Review Report (GPRR) in support of the planning application.
- (b) According to the layout plan, four proposed structures are to be constructed on or above the unregistered slopes at the northwest part of the Site. The applicant should clarify whether there will be any geotechnical works/site formation involved for the proposed development. In addition, the applicant should provide a detailed layout plan showing the relationship between the proposed structures,

the lot boundary, the unregistered slopes and the proposed geotechnical works, if any.

Environmental Hygiene

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

- (a) The toilet use proposal by the applicant (viz. only urination allowed at the toilets of the Site; defecation to be carried out at public toilets) is not acceptable. The toilet use is part of the service for the proposed holiday camp, provision of which should be the applicant's own responsibility and at his expenses. Besides, the three public toilets in the vicinity are located far away from the proposed holiday camp, and are inconvenient for the visitors.
- (b) The refuse collection points managed by the Food and Environmental Hygiene Department (FEHD) are mainly responsible for the collection of domestic wastes. Hence, for any waste generated from the proposed holiday camp, which is regarded as trade refuse, the applicant should handle them at his own expenses. In this connection, the proposal to dispose of trade refuse to the nearby refuse collection point(s) is not acceptable.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Traffic

10.1.7 Comments of the Commissioner for Transport (C for T):

He has no adverse comment on the application. The applicant should be reminded of the detailed comments at **Appendix IV**.

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

He has no adverse comment on the application. The applicant should be reminded of the detailed comments at **Appendix IV**.

Drainage

10.1.9 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 be acceptable from planning point of view, a condition should be stipulated requiring the applicant to submit a drainage proposal, and to implement and maintain the proposed drainage facilities to the satisfaction of his department.

- (c) The Site is in an area where no public stormwater drainage and sewerage connections are available.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire service installations being provided to his satisfaction.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

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 feedback from locals.

10.2 The following government departments have no objection to/no comment on the application:

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (d) Project Manager (West) (PM(W)), CEDD;
- (e) Chief Officer (Licensing Authority), Home Affairs Department; and
- (f) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 23.12.2022, the application was published for public inspection. During the statutory public inspection period, three public comments from Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature Hong Kong and an individual (**Appendices III-1 to III-3**) were received objecting to/raising concerns over the application on grounds as summarised below:

- (a) the proposed development is not in line with the planning intention and the presumption against development of the “CPA” zone;
- (b) ‘destroy first, build later’ approach may have been adopted for the proposed development. Felling of mature trees had been undertaken between November 2020 and July 2021. The Site had been further degraded into bare earth by October 2022;
- (c) there would be considerable amount of waste and sewage generated given the maximum capacity of 60 visitors, which may pose adverse impacts on the ecologically sensitive Deep Bay coast;

- (d) approval of the application would set an undesirable precedent;
- (e) the “CPA” zone along the Deep Bay coast is proposed to be designated as a Coastal Protection Park under the North Metropolis Development Strategy; and
- (f) applications within “CPA” zone should be rejected to better combat global warming.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed holiday camp at the Site within the “CPA” zone (**Plan A-1**), which 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. 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. In this regard, no information is given in the submission to justify that the proposed holiday camp is needed to support the conservation of the existing natural landscape or scenic quality of the area, or is an essential infrastructure project with overriding public interest. Hence, the proposed holiday camp is considered not in line with the planning intention of the “CPA” zone. There is no strong planning justification given in the submission to warrant a departure from the planning intention.
- 12.2 The Site is located near the coast of Deep Bay. Off the coast is the Ramsar Site, whilst to the further east is the Inner Deep Bay SSSI which falls within the WCA. According to TPB PG-No. 12C, the Site falls within the WBA, wherein an EcoIA has to be submitted for development requiring planning permission from the Board. DAFC advised that there are shrubland, marsh and mangrove to the north of the Site, and that the disturbance to natural wetland habitats including the coastal fauna and flora thereat should be avoided during the construction and operation of the proposed holiday camp. However, no EcoIA or other information is provided in the submission to address DAFC’s concerns. As such, the proposed development is considered not in line with TPB PG-No. 12C.
- 12.3 The Site is immediately surrounded mainly by agricultural land, ponds, shrubland, a pig farm, and an animal shelter. In this connection, DEP does not support the application as the buffer distance of at least 200m between livestock yards (viz. a licensed pig farm) and sensitive uses (viz. the proposed holiday camp) as stipulated under HKPSG cannot be met, and the visitors of the proposed holiday camp may be affected by the odour nuisance generated from the pig farm. No information is provided in the submission to address DEP’s concerns. As such, the applicant fails to demonstrate that the proposed development would not be susceptible to adverse environmental impact.
- 12.4 In view of the above, the proposed holiday camp is considered not compatible with the surrounding environment and land uses.
- 12.5 By comparing the time-series aerial photos/site photos between January 2021 and December 2022 (**Plans A-3b, A-4c, A-3a and A-4a**), it is noted that tree felling and vegetation clearance had been undertaken at the Site. The Site was gradually

transformed from mainly a shrubland to bare land. In this regard, CTP/UD&L of PlanD considers that the proposed holiday camp is not compatible with the surrounding landscape setting, and has reservation on the application.

- 12.6 H(GEO) of CEDD advises that some unregistered slopes and a steep slope are present within and to the northeast of the Site respectively. The applicant has not submitted a GPRR or other information to demonstrate the geotechnical feasibility of the proposed development.
- 12.7 DFEH considers the proposal of restricting the use of toilets at the Site to urination only and requiring the visitors of the proposed holiday camp to defecate at nearby public toilets not acceptable. Provision of toilets is one of the services of the proposed holiday camp which should be the applicant's own responsibility and at his expenses. She also considers that the three public toilets in the vicinity are located far away from the proposed holiday camp (with the nearest one at about 840m away) (**Plan A-5**) which are inconvenient for the visitors of the proposed holiday camp. Moreover, DFEH also considers the proposal to dispose of solid waste generated by the proposed holiday camp not acceptable, as refuse collection points managed by FEHD are mainly responsible for the collection of domestic wastes, and any trade refuse generated from the proposed holiday camp should be handled by the applicant at his own expenses. ~~In view of the above, the applicant fails to demonstrate the feasibility of the toilet use and solid waste disposal proposals.~~
- 12.8 Other concerned departments, including C for T, CE/MN of DSD and D of FS, have no objection to or no adverse comment on the proposed holiday camp from traffic, drainage and fire safety perspectives.
- 12.9 There is no previous application covering the Site nor similar application within the subject "CPA" zone. Approval of the application would set an undesirable precedent and encourage proliferation of similar use within the same "CPA" zone. The cumulative effect of approving such similar applications would result in a general degradation of the ecology and natural environment of the area, thereby frustrating the planning intention of the "CPA" zone.
- 12.10 Regarding the public comments received objecting to the application as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.9 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the "CPA" zone, which 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. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from such planning intention;

- (b) the proposed development, which falls within the Wetland Buffer Area, is not in line with the Town Planning Board Guidelines for 'Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance' (TPB PG-No. 12C) in that no ecological impact assessment is submitted to demonstrate the ecological impact of the proposed development and propose any mitigation measures; *and*
- (c) the applicant fails to demonstrate that the proposed development would not be susceptible to adverse environmental impact and would not have adverse landscape impacts on the surrounding areas. ~~and~~
- ~~(d) the applicant fails to demonstrate the feasibility of the toilet use and solid waste disposal proposals.~~

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **3.2.2027**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of an ecological impact assessment for the proposed development, and implementation of the ecological mitigation measures identified therein before commencement of the proposed development to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the Town Planning Board;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the submission of a geotechnical assessment report to assess the stability of existing geotechnical features that may affect or be affected by the proposed development, and the implementation of stabilisation/protection measures identified therein to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board;
- (d) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (e) if the above planning condition (a) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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 date when the validity of the permission should expire.

15. Attachments

Appendix I	Application Form received on 12.12.2022
Appendix Ia	SI received on 19.12.2022
Appendix Ib	FI received on 16.1.2023
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendices III-1 to III-3	Public Comments Received During Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photos taken in 2022 and 2021
Plans A-4a to A-4c	Site Photos in December 2022 and March 2021
Plan A-5	Public Toilets in the Vicinity of the Site

**PLANNING DEPARTMENT
FEBRUARY 2023**