

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/484

- Applicant** : Mr. Wong Wai Fong represented by FiBi International Project Consultancy Co. Limited
- Site** : Lots 1267, 1268, 1269, 1271 and 1273 in D.D. 129, Tsim Bei Tsui, Yuen Long, New Territories
- Site Area** : About 1,669m²
- 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, and Associated Filling and Excavation of Land

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 three years, and associated filling and excavation of land at the application site (the Site) (**Plan A-1**) zoned “GB” on the OZP. According to the Notes for the “GB” zone, ‘Place of Recreation, Sports or Culture’, which is a Column 2 use, as well as filling and excavation of land require planning permission from the Town Planning Board (the Board). The Site is partially fenced off and formed, concrete-paved at its northern and central portions, erected with structures and used for warehouse and open storage uses without valid planning permission (**Plans A-2, A-4a and A-4d**).
- 1.2 As shown on the vehicular access plan at **Drawing A-2**, the Site is accessible from Deep Bay Road via a local track (about 950m in length), with the ingress/egress located at the south of the Site (**Drawing A-1**). As shown on the layout plan at **Drawing A-1**, six structures of one to two storeys (about 3m to 6m in height) and with a total floor area of about 882m² are proposed for greenhouses, demonstration and exhibition room, visitors resting areas, staff resting area, store room, toilet, guardhouse and cashier booth uses. The three greenhouses would be built with metal pipes and covered by glass, whilst the other structures would be erected using converted containers or corrugated metal sheets. The total area for cultivation (i.e. the three greenhouses and two open-field areas) is about 732m² (or 43.9% of the Site). Two parking spaces for private cars would be provided.

- 1.3 According to the applicant, the greenhouses and open-field would be subdivided into mini-farmlands for letting to leisure farmers for hydroponics and aquaponics farming, as well as growing of herbs, flowers, fruits and vegetables. The operation hours would be between 9 a.m. and 6 p.m. daily, including Sundays and public holidays. The maximum number of visitors would not be more than 80 per day and 20 at any one time. Visitors can access the Site by private cars, or by minibus plying Deep Bay Road and then walking to the Site. Drainage facilities (i.e. surface U-channels and catchpits) as well as 10 new trees would be provided (**Drawings A-4 and A-5**).
- 1.4 Moreover, the applicant would like to regularise the land filling works and propose excavation of land on the Site. As shown on the land filling plan at **Drawing A-3**, the existing concrete paving covers an area of about 775.6m² (or 46.5%) and about 0.5m in depth. The concrete paving is proposed to be retained for hydroponics and aquaponics farming within the greenhouses, erection of structures, drainage works and visitors movement space. The applied land filling works has been completed and no further filling of land would be undertaken. In addition, the applicant proposes to excavate a total of about 125m² with a depth of about 1m for the proposed drainage facilities around the Site and tree planting mentioned in paragraph 1.3 above.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 15.8.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 18.8.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 19.9.2023* (**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 with attachments and the FI at **Appendices I and Ib**. They can be summarised as follows:

- (a) the proposed hobby farm is temporary in nature, and would not jeopardise the long-term planning intention;
- (b) the proposed hobby farm is small in scale, away from residential areas, and would not operate during sensitive hours. Hence, it has minimal adverse environmental, traffic, drainage, landscape and visual impacts on the surroundings;
- (c) similar applications have been approved by the Board within the same “GB” zone. The proposed hobby farm would not set an undesirable precedent;
- (d) the applicant would comply with the planning intention imposed by the Board, including provision of drainage facilities; and
- (e) the retainment of the existing concrete paving would facilitate pest control within the proposed greenhouses, and reduce construction waste.

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

The applicant is one of the “current land owners”. In respect of the other “current land owner(s)”, the applicant 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 Ordinance (TPB PG-No. 31A) by posting site notice and sending notification letter to the Ping Shan Rural Committee. 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 PGNo. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are detailed at **Appendix III**.

5. Background

The storage use on-site would be subject to planning enforcement action.

6. Previous Application

The Site is not involved in any previous application.

7. Similar Applications

- 7.1 Within the same “GB” zone, there are 10 similar applications (No. A/YL-LFS/343, 363, 366, 380, 408, 409, 414, 419, 435 and 475) for hobby farm with or without other uses/facilities and filling of land in the past five years. Eight of them were approved while two were rejected by the Rural and New Town Planning Committee (the Committee) of the Board. Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

Approved applications

- 7.2 Eight applications No. A/YL-LFS/343, 363, 366, 380, 408, 414, 435 and 475 covering seven different sites for temporary hobby farm with or without other uses/facilities were approved by the Committee between 2018 and 2023 mainly on considerations that the applied development was in line with or not in conflict with the planning intention of the “GB” zone and 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. With the exception

of application No. A/YL-LFS/363 (0.6% of the Site concrete-paved), all the approved similar applications do not involve filling of land. Moreover, although the sites of applications No. A/YL-LFS/363, 408 and 414 were concrete-paved when the applications were approved, the applicants have undertaken and were bounded by approval condition to remove the hard paving on the sites.

Rejected applications

- 7.3 Applications No. A/YL-LFS/409 and 419 covering one 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 the proposed development was not in line with the planning intention and TPB PG-No. 10; there was no strong justification to demonstrate that the proposed development was genuinely for hobby farm use; and/or there were adverse comments from concerned government department on slope safety aspect.

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

8.1 The Site is:

- (a) partially fenced off and formed, concrete-paved at its northern and central portions, erected with structures and used for warehouse and open storage uses without valid planning permission; and
- (b) is accessible from Deep Bay Road located to its north via a local track (about 950m).

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

- (a) to the north are a site with works in progress and parking of tractors;
- (b) to the east are cultivated agricultural land, a site with works in progress and vacant land. To the further east are the Tsim Bei Tsui Egretty Site of Special Scientific Interest (SSSI) and the Inner Deep Bay SSSI;
- (c) to the south are cultivated agricultural land, fallow agricultural land and unused land; and
- (d) to the west are open storage of lorry compartment, and woodland intermixed with graves within Permitted Burial Ground No. YL/62.

9. Planning Intention

- 9.1 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.

- 9.2 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 below, other 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.

- 10.2 The following government departments have adverse comments on the application:

Landscaping

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

- (a) The Site is situated in area of rural coastal plains predominated by temporary structures, village houses, farmland, ponds and existing woodland within the same “GB” zone which are in close proximity to the Site.
- (b) By comparing the site photos taken in August 2023 (**Plans A-4a to A-4d**) and the aerial photo taken in March 2022 (**Plan A-3a**), tree removal and filling of land had been undertaken at the Site. Adverse impact on landscape resources had taken place. The proposed new tree planting (eight of 10 proposed to be planted on the concrete-paved area) could not mitigate the impact generated by the concrete paving on-site.
- (c) She has grave concern that the proposed development would further degrade the landscape resources and quality of the “GB” zone. The proposed development is considered incompatible with the landscape character and resources of the subject “GB” zone.

Nature Conservation and Agriculture

- 10.2.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC)

- (a) He has no comment from nature conservation perspective.
- (b) The soil on the Site is mixed with rocks, gravels, rubbish and construction waste, and cannot be considered suitable for cultivation.

Land Administration

10.2.3 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) He has grave concerns given that there are unauthorized building works and/or uses on Lots 1271 and 1273 in D.D.129 which are already subject to lease enforcement actions. The lot owner(s) should remedy the lease breaches as demanded by LandsD.
- (b) It is noted that a staff rest room is proposed in the Site. However, no Short Term Waiver application to permit structure for domestic purpose will be considered according to prevailing policy. LandsD reserve the right to take enforcement action against such domestic purpose structure in the Site, if any.
- (c) The applicant should note his detailed comments at **Appendix VI**.

10.3 The following government department conveyed local objections to the application:

District Officer's Comments

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

He has consulted the locals regarding the application. A local comment from villagers of Mong Tseng Wai (**Appendix VII**) was received objecting to the application on grounds that change in land use is not appropriate at the Site zoned "GB"; the traffic generated by the proposed development would induce pedestrian-vehicular conflict at Deep Bay Road and the local access road to the Site which are substandard; the local access road is for use by villagers as access to graves and cultivated land only and should not be overused; the proposed development would adversely affect the fung shui of the burial ground of the villagers in the vicinity of the Site; and approval of the application would open the flood gate for similar applications.

11. Public Comments Received During Statutory Publication Period

On 22.8.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from the Conservancy Association and an individual (**Appendices VIII-1 and VIII-2**) were received objecting to the application mainly on grounds that the proposed hobby farm use is not in line with the planning intention of the WBA; the proposed hobby farm may have adverse noise and water quality impacts on the Tsim Bei Tsui Egretty and Inner Deep Bay SSSIs; there is no detail as to how the Site would be reinstated after the decommissioning of the proposed hobby farm; and the genuinity of the proposed hobby farm use is in doubt.

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 three years and associated filling and excavation of land at the Site within the “GB” zone of the OZP (**Plan A-1**). There is a general presumption against development within the “GB” zone. Moreover, filling and excavation of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The proposed development with filling and excavation of land, which involves vegetation clearance and concrete paving of about 775.6m² or 46.5% of the Site (to be discussed in paragraph 12.4 below), is not in line with the planning intention of the “GB” zone.
- 12.2 Although the Site is proposed for hobby farm use, the proposed cultivation areas (i.e. the three greenhouses and two open-field areas) will take up only about 43.9% of the Site (about 732m²). Moreover, with regard to the open-field areas, DAFC advised that the soil on-site is mixed with rocks, gravels, rubbish and construction waste, and cannot be considered suitable for cultivation. In a nutshell, there is no strong justifications in the submission to demonstrate that the proposed development is genuinely for hobby farm use. As such, there is no strong planning justification given in the submission to warrant a departure from the planning intention, even on a temporary basis.
- 12.3 The Site falls within the WBA designated under TPB PG-No. 12C, and is located in an area predominated by woodland and natural vegetation (**Plan A-3a**), including the woodland of the Tsim Bei Tsui Egrettry SSSI and the mangroves and ponds of the Inner Deep Bay SSSI to the east and further east respectively (**Plan A-1**). Although there are sites with works in progress in the vicinity, they are suspected UDIs subject to planning enforcement action. The proposed use and associated filling and excavation of land is considered not compatible with the surrounding areas.
- 12.4 According to 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. The design and layout of any proposed development within “GB” zone should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The issue on compatibility has been discussed in paragraph 12.3 above. With regard to the impact on existing natural vegetation and landscape, by comparing the site condition through time-series aerial photos between July 2015 and August 2023 (**Plans A-3a to A-3d and A-4a**), it is noted that tree felling at majority of the Site and concrete paving at mainly northern portion of the Site had been undertaken. The Site has gradually been transformed from mainly a woodland to formed land. In this regard, CTP/UD&L of PlanD considered that while adverse impact on landscape resources had taken place, the proposed planting of 10 new tree plantings could not mitigate the impact generated by the concrete paving on-site. She also considered the proposed development is incompatible with the landscape character and resources of the subject “GB” zone. In view of the above, the proposed use and associated filling and excavation of land are considered not in line with TPB PG-No. 10.
- 12.5 DLO/YL of LandsD raised concerns from land administration perspective as there are unauthorized building works and/or uses at the Site (i.e. Lots 1271 and 1273 in

D.D.129) which is already subject to lease enforcement action.

- 12.6 Other concerned departments including the Director of Environmental Protection, the Commissioner for Transport, the Chief Engineer/Mainland North of Drainage Services Department and the Director of Fire Services have no objection to or no comment on the proposed use and associated filling and excavation of land from environmental, traffic, drainage and fire safety perspectives.
- 12.7 The Site is not involved in any previous planning application. Although the Committee approved eight similar applications for temporary hobby farm with or without other recreational uses within the same “GB” zone, they generally involve minimal extent of filling of land (0.6% of the site for Application No. A/YL-LFS/363) or even no filling of land at all (for the other seven similar applications). Moreover, although the sites of Application No. A/YL-LFS/363, 408 and 414 were concrete-paved when the applications were approved, the applicants had undertaken and were bounded by approval condition(s) to remove the hard paving on the sites before the applied uses could operate so as to address the landscape concern. The current application is different in that CTP/UD&L of PlanD has adverse comment from landscape perspective, yet the existing concrete-paving on-site are not proposed to be removed. In fact, the Committee rejected two similar applications (No. A/YL-LFS/409 and 419) involving retainment of concrete-paving covering the site which were considered incompatible with the surrounding environment. As such, rejecting the current application is not in conflict with the previous decisions of the Committee.
- 12.8 Regarding the local views conveyed by DO/YL of HAD and the public comments objecting to the application as stated in paragraphs 10.3.1 and 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.7 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 local views and public comments mentioned in paragraphs 10.3.1 and 11 respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed use and associated filling and excavation of land are 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; and
 - (b) the proposed use and associated filling and excavation of land are not in line with the 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) in that the proposed use and associated filling and excavation of land are considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use and associated filling and excavation of land would not have adverse landscape impact on the

surrounding areas.

- 13.2 Alternatively, 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 three years until **13.10.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored 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 **13.4.2024**;
- (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 **13.7.2024**;
- (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 proposal for water supplies for firefighting and fire service installations 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 **13.4.2024**;
- (f) in relation to (e) above, the provision of water supplies for firefighting and fire service installations 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 **13.7.2024**;
- (g) if any of the above planning condition (a) or (d) is not complied with during the planning 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 condition (b), (c), (e) or (f) is not complied with by the 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**.

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 period of which permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form with attachments received on 15.8.2023
Appendix Ia	SI received on 18.8.2023
Appendix Ib	FI received on 19.9.2023
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	Local Views conveyed by District Officer/Yuen Long
Appendices VIII-1 and VIII-2	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Land Filling and Excavation Plan
Drawing A-4	Drainage Plan
Drawing A-5	Landscape Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3a to A-3d	Aerial Photo in 2022, 2019, 2017 and 2015
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**