

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/494

- Applicants** : Rich World Global Investment Company Limited and South Direction Limited represented by FiBi International Project Consultancy Co. Limited
- Site** : Lots 626, 710 and 712 in D.D. 129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,060m² (including GL of about 39m² or 1.9%)
- 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 Filling of Land

1. The Proposal

- 1.1 The applicants seek planning permission for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years, and associated filling 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 of land require planning permission from the Town Planning Board (the Board). The Site is largely fenced off, formed and largely vacant (**Plans A-2, A-4a and A-4b**).
- 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, with the two ingresses/egresses (one for vehicles and one for pedestrians) 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 area, office, staff resting area, agricultural store room, toilet, guardhouse and cashier booth uses. The two greenhouses would be built with metal pipes and covered with glass, whilst the other structures would be erected using converted containers, steel or corrugated metal sheets. The total area for cultivation (i.e. the two greenhouses and five open-field areas) will be about 1,103m² (or about 53.5% of the Site). Six parking spaces for private cars would be provided.

- 1.3 According to the applicants, the greenhouses and open-field would be subdivided into mini-farmlands for letting to leisure farmers for growing of herbs, flowers, fruits and vegetables. The operation hours would be between 9 a.m. and 6 p.m. on Mondays to Saturdays, and between 9 a.m. and 8 p.m. on 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) are provided (**Drawings A-3**). Sewage generated from the proposed toilet would be collected by a sewage holding tank and tanked away regularly.
- 1.4 Moreover, the applicants propose to fill an area of about 195m² (or 9.5%) and about 0.2m in depth with bricks for formation of a track for movement of people within the Site (**Drawing A-1**).
- 1.5 The Site is the subject of two previous applications (No. A/YL-LFS/278 and 366) for the same applied use without filling of land, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2015 and 2020 respectively (details at paragraph 6 below). However, the planning permissions under both applications were subsequently revoked in 2016 and 2022 respectively due to non-compliance with approval conditions prohibiting land filling and site formation. As compared with the previous applications, the current application is submitted by different applicants.
- 1.6 A comparison of the major development parameters between the last previous application No. A/YL-LFS/366 and the current application is as follows.

	Previous Application No. A/YL-LFS/366 (a)	Current Application No. A/YL-LFS/494 (b)	Difference (b) - (a)
Site Area	about 2,300m ² (incl. GL of about 130m ²)	about 2,060m ² (incl. GL of about 39m ²)	-240m ² (-10.4%)
Applied uses	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years	Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years and Filling of Land	Same applied use plus filling of land
No. of structures	8 • for greenhouses, agricultural store rooms, site office, rain shelter, cashier booth and toilet uses	6 • for greenhouses, demonstration and exhibition room, visitors resting area, office, staff resting area, agricultural store room, toilet, guardhouse and cashier booth uses	-2 (-25%)
Total Floor Area	about 1,265m ²	about 882m ²	-383m ² (-30.3%)
Height of structures	1 storey (about 3m)	1 to 2 storeys (about 3m to 6m)	+1 storey (+100%) +3m (+100%)
Cultivation Area	about 1,280m ²	about 1,103m ²	-177m ² (-13.8%)
No. of parking spaces	8 (private cars)	6 (private cars)	-2 (-25%)

	Previous Application No. A/YL-LFS/366 (a)	Current Application No. A/YL-LFS/494 (b)	Difference (b) - (a)
Operation Hours	9 a.m. to 7:30 p.m. daily	9 a.m. to 6 p.m. (Mondays to Saturdays) 9 a.m. to 8 p.m. (Sundays and public holidays)	Slightly extended operating hours

1.7 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 29.9.2023 (Appendix I)
- (b) Supplementary Information (SI) received on 6.10.2023 (Appendix Ia)
- (c) Further Information (FI) received on 9.11.2023 (Appendix Ib)
[accepted and exempted from publication requirements]

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form with attachments and the SI 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) drainage facilities (surface U-channels) have been provided at the Site;
- (c) the applicants would comply with the approval conditions imposed by the Board; and
- (d) due to unfamiliarity with the approval conditions, the Site was filled with asphalt for manoeuvring of vehicles, which led to revocation of the previous permission. The Site has been reinstated as per the requirements of the Lands Department (LandsD) and Planning Department (PlanD). The applicants would not breach the approval conditions imposed again.

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

The applicants are the sole “current land owners” of their respective lots. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Ordinance (TPB PG-No. 31B) are not applicable.

4. Town Planning Board Guidelines

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**.

5. **Background**

As shown by the time-series site photos taken in June 2020, February 2021 and October 2023 (**Plans A-5a and A-5b**), filling of land to raise the site formation level of the Site had taken place without planning permission. Should there be sufficient evidence to form an opinion that there is unauthorized development at the Site, planning enforcement would be undertaken.

6. **Previous Applications**

- 6.1 The Site is the subject of two previous applications (No. A/YL-LFS/278 and 366) for proposed temporary place of recreation, sports or culture (hobby farm) for a period of three years. Both of them were approved with conditions by the Committee in 2015 and 2020 respectively mainly on considerations that the applied use was in line with or not in conflict with the planning intention of the “GB” zone and TPB PG-No.10; the applied use did not involve land filling or site formation; the applied use 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. Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 As the Site was originally located at a lower site level than the local track to the south, the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD had concern that adverse landscape impact would be caused by the possible land filling/site formation works. As such, an approval condition prohibiting land filling/site formation was imposed under the two previous permissions. Nevertheless, both previous permissions were subsequently revoked in 2016 and 2022 due to non-compliance with approval conditions prohibiting land filling/site formation at the Site. In particular, a fill platform composed of soil and construction debris was formed at the Site in 2016, whilst a fill platform comprising asphalt and soil intermixed with rocks and construction debris was formed at the Site in 2021 to 2022 (**Plans A-5a to A-5b**).

7. **Similar Applications**

- 7.1 Within the same “GB” zone, there are 10 similar applications (No. A/YL-LFS/343, 363, 380, 408, 409, 414, 419, 435, 475 and 484) for hobby farm with or without other uses/facilities and filling of land in the past five years. Seven of them were approved while three were rejected by the Committee. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

Approved applications

- 7.2 Six applications No. A/YL-LFS/343, 380, 408, 414, 435 and 475 covering five different sites for temporary hobby farm not involving any filling of land were approved by the Committee between 2019 and 2023 mainly on similar considerations as summarised in paragraph 6.1 above.

- 7.3 Application No. A/YL-LFS/363 covering with other uses/facilities and retainment of hard-paving (about 118m² or 0.57% of the Site) was approved by the Committee in 2020 mainly on considerations that the applied use was not in conflict with the planning intention of the “GB” zone; the applied use 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.

Rejected applications

- 7.4 Applications No. A/YL-LFS/409 and 419 covering one same site involving filling of soil atop concrete-paving covering the entire site 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.
- 7.5 Application No. A/YL-LFS/484 for hobby farm with vegetation clearance, concrete paving of about half of the site and excavation of land was rejected by the Committee on 13.10.2023 mainly on grounds of being not in line with the planning intention as well as TPB PG-No. 10 due to incompatibility with the surrounding areas and adverse landscape impact. In particular, there was no strong justification to demonstrate that the proposed development was genuinely for hobby farm use in that the proposed cultivation area occupied less than half of the Site, and the soil on site was considered not suitable for cultivation.

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

8.1 The Site is:

- (a) largely fenced off, formed and largely vacant; and
- (b) accessible from Deep Bay Road located to its west via a local track.

- 8.2 The surrounding areas are predominated by shrubland, grassland and cultivated agricultural land. Other uses such as storage yards, warehouses, container vehicle park, parking of vehicles, recycling workshop and residential dwellings are also found in the vicinity of the Site. Some of the uses are suspected unauthorized developments (UDs) subject to planning enforcement action.

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 IV and V** respectively.

10.2 The following government department has adverse comments on the application:

Landscaping

10.2.1 Comments of CTP/UD&L, PlanD:

- (a) The Site is situated in area of rural coastal plains predominated by temporary structures, village houses, farmland, pond and existing woodland. The Site is bare ground with weeds and some movable plants.
- (b) According to the aerial photo of 2022, vegetation clearance and extensive site formation had been undertaken at the Site. Significant adverse impact on landscape resources had taken place.
- (c) Noting the existing vegetation cover in the vicinity, further degradation of the landscape resources and quality of the “GB” zone by the proposed development is envisaged.
- (d) The applicants should note her advisory comments at **Appendix V**.

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. Seven local comments from the Village Representatives and villagers of Mong Tseng Wai and Mong Tseng Tsuen (Samples at **Appendix VI-1 to VI-3**) were received objecting to the application on grounds that the Site abuts the only access to the villages and the proposed development would cause traffic congestion and pedestrian-vehicular conflict thereat; and extensive filling of land had been undertaken to turn the Site for open storage use which caused flooding in the surrounding areas.

11. Public Comments Received During Statutory Publication Period

On 13.10.2023, the application was published for public inspection. During the statutory public inspection period, three public comments from the Conservancy Association, Kadoorie Farm & Botanic Garden Corporation and an individual (**Appendices VII-1 to VII-3**) were received objecting to or raising concerns on the application mainly on the following grounds:

- (a) vegetation clearance and site formation had been undertaken at the Site. The application is a suspected ‘destroy first, build later’ case, to which sympathetic consideration should not be given;
- (b) repeated non-compliance with approval condition prohibiting site formation reveals that the Site is not genuinely for hobby farm use. Applications as such should not be approved;
- (c) land filling should not be tolerated in Lau Fau Shan area, especially amidst climate change;
- (d) it is uncertain whether site formation would be undertaken for erection of the proposed structures; and
- (e) no information has been provided on potential water pollution and mitigation measures, landscape proposal and reinstatement proposal upon decommission.

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 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. The proposed use with associated filling of land, which involves brick paving of about 195m² or 9.5% of the Site, is not in line with the planning intention of the “GB” zone.
- 12.2 Moreover, although the Site is proposed for hobby farm use, the proposed cultivation areas (i.e. the two greenhouses and five open-field areas) will occupy only about 1,103m² (or about 53.5% of the Site). On the other hand, a substantial part of the Site (i.e. about 957m² or 46.5%) will be designated for other uses, such as demonstration and exhibition area, resting area, storage, car parking and circulation space. Although the Director of Agriculture, Fisheries and Conservation and the Chief Engineer/Mainland North of Drainage Services Department have no objection to/adverse comment on the proposed use and associated filling of land, 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 is located within an area predominated by shrubland, grassland and cultivated agricultural land. The proposed development, with brick paving taking up about 195m² (or 9.5%) of the Site, is considered not compatible with the surrounding environment.

- 12.4 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 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 issues on exceptional circumstances and compatibility have been discussed in paragraphs 12.2 and 12.3 above. With regard to the impact on existing natural vegetation and landscape, by comparing the time-series aerial photos between 2020 and 2022 (**Plans A-3a to A-3c**) as well as site photos between 2020 and 2023 (**Plans A-5a and A-5b**), extensive vegetation clearance and site formation had been undertaken. The Site has gradually been transformed from a low-lying woodland to formed land with raised site formation level. CTP/UD&L of PlanD considered that significant adverse impact on landscape resources had taken place. Noting the existing vegetation cover in the vicinity, she also considered that further degradation of the landscape resources and quality of the “GB” zone by the proposed development is envisaged. In view of the above, the proposed use and associated filling of land are considered not in line with TPB PG-No. 10.
- 12.5 Other concerned government departments including the Director of Environmental Protection, Commissioner for Transport and Director of Fire Services have no objection to the application from environment, traffic and fire safety perspectives.
- 12.6 The Site is the subject of two previous planning permissions under applications No. A/YL-LFS/278 and 366 for the same applied use granted in 2015 and 2020 respectively. Moreover, the Committee approved seven similar applications for temporary hobby farm with or without other uses/facilities within the same “GB” zone. However, they generally involve minimal extent of filling of land (about 118m² or 0.57% of the site for Application No. A/YL-LFS/363) or even no filling of land at all (for the two previous applications and the other six similar applications). The current application is different from the two previous applications in that a larger extent of filling of land (i.e. brick paving of 195m² or 9.5% of the Site) is proposed. In fact, the Committee rejected three similar applications (No. A/YL-LFS/409, 419 and 484) involving retainment of concrete-paving covering the sites 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.
- 12.7 Moreover, both previous planning permissions under applications No. A/YL-LFS/278 and 363 were subsequently revoked in 2016 and 2022 respectively due to non-compliance with approval conditions prohibiting land filling and site formation at the Site. Despite the imposition of approval condition prohibiting land filling/site formation, the Site has gradually been transformed from a low-lying woodland to formed land with raised site formation level (**Plans A-5a and A-5b**). Whilst the applicants of the current application are different from those of the two approved previous applications, it is noted that the current applicants have been the registered owners of the respective lots of the Site when the first previous application was approved in 2015. Also, the proposed layout of the Site under the current application is similar to those under the previous two planning permissions. Whilst the applicants undertake in the current application to comply with the approval conditions, similar undertaking was also given in the two previous applications, but the permissions were still revoked subsequently due to non-compliance with approval condition prohibiting land filling/site formation. Hence, no genuine effort

had been paid in complying with the said approval condition of the previous applications. In view of the above, approval of the application would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

- 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 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 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 of land are considered not compatible with the surrounding environment, and the applicants fail to demonstrate that the proposed use and associated filling 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 **24.11.2026**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no filling of land other than those proposed under the application is allowed on the Site during the planning approval period;
- (b) no public announcement system, any form of audio amplifier and loudspeaker is allowed to be used on the Site at any time during the planning approval period;
- (c) 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;

- (d) 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 **24.5.2024**;
- (e) in relation to (d) 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 **24.8.2024**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 Committee by **24.5.2024**;
- (h) in relation to (g) 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 Committee by **24.8.2024**;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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;
- (j) if any of the above planning condition (d), (e), (g) or (h) 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
- (k) 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 V**.

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 29.9.2023
Appendix Ia	SI received on 6.10.2023
Appendix Ib	FI received on 9.11.2023
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 to VI-3	Local Views conveyed by District Officer/Yuen Long
Appendices VII-1 to VII-3	Public Comments Received During Statutory Publication Period
Appendix VIII	Works Area of the Water Main Improvement Works
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos taken in 2023, 2021 and 2020
Plans A-4a and A-4b	Site Photos
Plans A-5a and A-5b	Time-series Site Photos taken in 2020, 2021 and 2023

**PLANNING DEPARTMENT
NOVEMBER 2023**